



Australian Government

Department of Defence

ASDEFCON (SUPPORT)

**Productivity and Performance Based
Contracting Guide for
ASDEFCON (Support) V4.0**

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Authority

This *Guide* does not create procurement policy. This *Guide* refers to mandatory procurement policies contained in either the *Defence Procurement Policy Manual* or *Departmental Procurement Policy Instructions*, which are applicable to the *Australian Standard for Defence Contracting* (ASDEFCON) Support (ASDEFCON (Support)) templates. Any mandatory procurement guidance referred to in this *Guide* is sourced from appropriate legislation and mandatory Commonwealth and Defence policy.

Note to Defence Staff and External Agencies

Defence staff and external agencies intending to use the associated ASDEFCON (Support) template will need to tailor that template to their specific procurement requirements and should seek appropriate professional guidance as required.

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This publication should be attributed as the '*Productivity and Performance Based Contracting Guide for ASDEFCON (Support) V4.0*'.

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are detailed on the [It's an Honour](http://www.itsanhonour.gov.au) website³.

Feedback

Feedback and suggestions should be sent to: ASDEFCONSOW.Support@defence.gov.au

Amendment Record

| Version | Release Date | Description of Amendments |
|---------|--------------|---|
| V3.0 | July 2011 | First published for template version 3.0. |
| V3.1 | July 2015 | Update for template version 3.1. |
| V4.0 | March 2019 | Update for template version 4.0. |

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INTRODUCTION

Purpose and Scope

ASDEFCON (Support) version 3.0 was developed to introduce a standard approach for Productivity and Performance Based Contracts (PPBCs) within Defence. The Capability Acquisition and Sustainment Group (CASG) has continued this approach with the release of versions 3.1 and 4.0.

This ***Productivity and Performance Based Contracting (PPBC) Guide for ASDEFCON (Support) V4.0*** (this 'Guide') includes an introduction to some PPBC concepts and discusses the clauses of the *ASDEFCON (Support)* COC and Attachments that are specific to the implementation of PPBCs.

The *SOW Tailoring Guide for ASDEFCON (Support) V4.0* also provides guidance for tailoring SOW clauses, including SOW clause 3.4.5 for Performance Assessment Reviews, and SOW clause 13 for the Continuous Improvement and Efficiencies (CIE) program.

Defined terms used in this document have the meaning given in the *ASDEFCON (Support)* Glossary.

Productivity and Performance Based Contracts

The CASG defines a PBC as a contract that is structured to motivate the contractor to achieve particular outcomes, rather than the performance of individual activities. In the CASG, strategic contracting initiatives are focussed on two key objectives, namely:

- a. enhancing the ability to meet Defence capability preparedness requirements (ie, both readiness and sustainability)⁴, and
- b. reducing the Total Cost of Ownership (TCO)⁵.

PBCs address the first of these objectives but, other than an initial redesign of support processes, they contain no inherent process to achieve further savings. A PPBC combines a PBC with mechanisms to encourage Efficiencies and to share in savings that lead to reductions in TCO. The Efficiencies element of the Contract may be separate from the performance-management framework; however, the changes that reduce cost are not necessarily independent of, and may influence, performance.

The Performance Management Framework

The performance-management framework within a PBC links the required Capability-based Outcomes to Contractor performance and then links Contractor performance to a range of tailored rewards and remedies. This framework includes several contractual components covering the definition, planning, measurement, reporting, and the assessment of performance where the assessed results are used to invoke a targeted range of rewards and remedies with the aim of motivating the contractor to perform in a way that contributes to the Outcomes required by Defence.

PBCs use Performance Measures to determine Contractor performance in the provision of Services, and the contribution to the required Outcomes. While there are various types of Performance Measures, *ASDEFCON (Support)* uses a simple approach with only two categories:

- a. **KPIs.** KPIs are Performance Measures that measure the contribution of the Contract in achieving Outcomes. A KPI may use a single Performance Measure or combine a number of measures in order to provide an effective indication of Contractor performance. KPIs are linked to Performance Payments, as a method of motivating the Contractor. KPIs may be linked to other rewards and remedies specified in the Contract.
- b. **OPMs.** OPMs can be used for a multitude of purposes, such as validating the effectiveness of KPIs, measuring other Services, assessing the contractual relationship, and providing lead indicators for the future health of the Materiel System. Whatever the OPM, the purpose must be specified in Attachment Q. OPMs are not linked to Performance Payments but may, if appropriate, be linked to other rewards and remedies, such as Award Terms.

The *ASDEFCON (Support)* template does not prescribe the KPIs and OPMs to be used. Drafters need to identify and define these Performance Measures in the draft Contract, based on the scope of the required Services and the characteristics of the Products Being Supported. Drafters should seek assistance from domain and PBC specialists when developing KPIs and OPMs, particularly to understand the implications of the relationships between KPIs and commercial risk. The CASG PBC

⁴ For further information on preparedness, see ADDP 00.2, 'Preparedness and Mobilisation'.

⁵ TCO is the total cost to the Commonwealth, both direct and indirect, of the products being supported over the life of type of the Mission System(s). The TCO includes all costs associated with in-service operations, logistics support, and disposal.

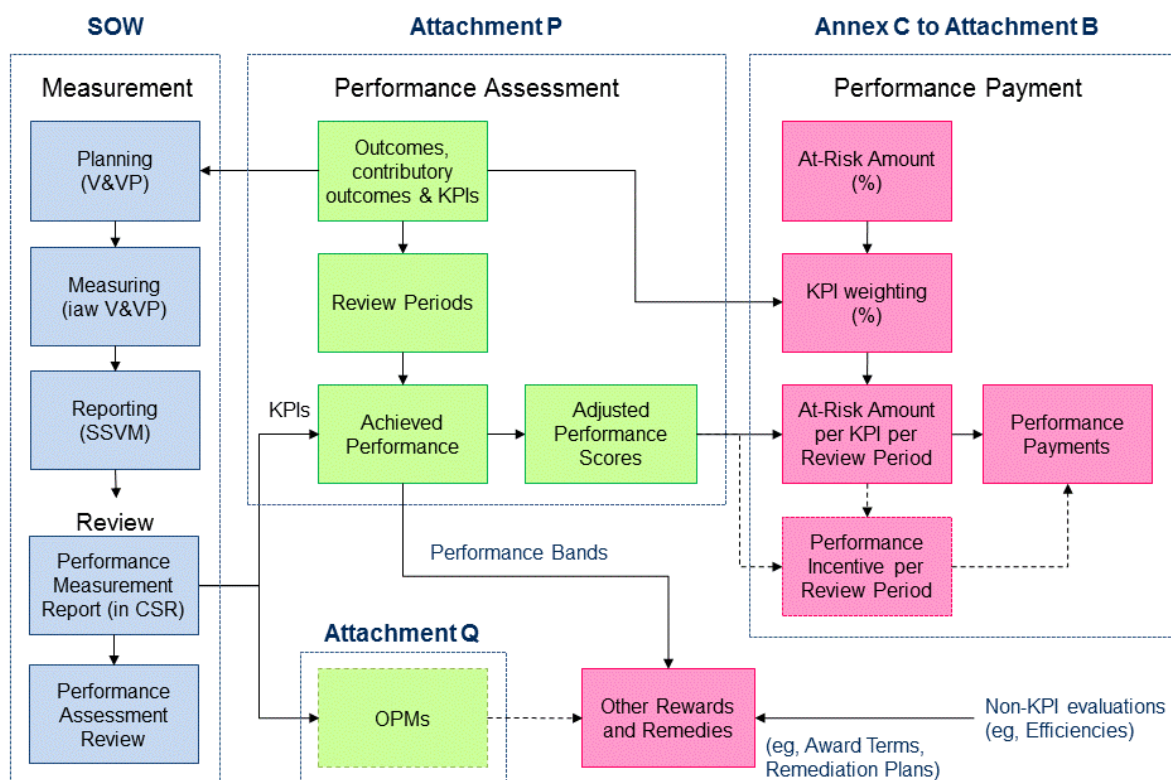
Centre of Excellence (PBC CoE) provides assistance to procurement teams developing PBCs and contract-specific Performance Measures.

Drafters should be aware that rewards and remedies linked to Performance Measures do not operate in isolation and are part of a larger performance management framework, including other remedies, much of which is not covered in this guide.

The *ASDEFCON (Support)* template provides the necessary performance-measurement framework clauses on which to develop a PBC. The major PBC components are included in:

- a. COC clause 6, Performance, Acceptance and Ownership;
- b. COC clause 7, Price and Payment;
- c. Annex C to Attachment B, Performance Payments;
- d. Attachment P, Performance Assessment (using KPIs);
- e. Attachment Q, Other Performance Measures;
- f. SOW clause 3.4, Support Services Communication Strategy; and
- g. SOW clause 10, Verification and Validation (V&V).

The following diagram outlines the relationship between these components.



As a brief explanation of the structure of the performance-management framework:

- Defence's desired / required Outcomes, the contributing contract outcomes, and the definitions of the KPIs are included in Attachment P. Note that it is possible for some KPIs to have different Review Periods (but three months is typical) hence Review Period durations are also identified in this Attachment.
- Performance measurement activities are Verification and Validation (V&V) activities, conducted in accordance with SOW clause 10 and the Approved V&V Plan. The Support Services Verification Matrix (SSVM) reports the results in each monthly reporting period (ie, there is generally more than one SSVM reporting period per Review Period).
- At the end of a Review Period, the Achieved Performance is calculated from the reported results, and converted into an Adjusted Performance Score (APS) in accordance with Attachment P. The APS converts the Achieved Performance (calculated in any measurement base) into a percentage of the KPI's Required Performance Level.

- In the Price and Payments Schedule at Attachment B, the At-Risk Amount is identified as a percentage of the Core Services Fee, and a portion is allocated to each KPI for each Review Period. Performance Incentives may also be defined for individual KPIs.
- The Performance Payment for each Review Period is calculated using the APS and the At-Risk Amount per Review Period for each KPI. Any Performance Incentives are also calculated as an additional percentage of the At-Risk Amount, and included in the Performance Payment. The total Performance Payment for a Review Period is the sum of the Performance Payments for all of the individual KPIs.
- A Performance Measurement Report, delivered to the Commonwealth, details the performance results for the Review Period and the calculated Performance Payments. The report may also include claims for performance relief, when applicable.
- A Performance Assessment Review is held just after each Review Period to discuss the Performance Measurement Report and to enable the Performance Payment to be paid. At-Risk Amounts are paid monthly, except in the last month of each Review Period when the Performance Payment is calculated and used to adjust the payment of the At-Risk Amount for the whole Review Period.
- In addition to Performance Payments for KPIs, KPIs and OPMs may be linked to other rewards and remedies under the Contract.

Productivity

The productivity element of an *ASDEFCON (Support)* PPBC is called the [Continuous Improvement and Efficiencies \(CIE\) program](#), which involves the following template components:

- a. COC clause 3.17, Continuous Improvements and Efficiencies;
- b. SOW clause 13, Continuous Improvements and Efficiencies;
- c. DID-SSM-EIP, which specifies requirements for the Efficiencies Implementation Plan (EIP); and
- d. DID-SSM-EAIR, which specifies requirements for the Efficiencies Analysis and Implementation Report (EAIR).

The CIE program results in changes to the Recurring Services Fees, as the savings created from Efficiencies are shared. The Recurring Services Fee is detailed in Annex B to Attachment B.

Before Tailoring

The template components listed are **not** the starting point for developing a PBC/PPBC. An overall strategy for the contract (or contracts) should be developed and defined in a Support Procurement Strategy (SPS), or a document covering acquisition and support contracting strategies for new systems, before drafting begins. The SPS, or other contracting strategy, is to articulate clearly the performance requirements and the attributes of the performance management framework proposed for the support contract(s).

Further Assistance

Advice regarding the development of the performance aspects of a PPBC is available from the PBC CoE: PBC.Enquiry@defence.gov.au.

For help related to commercial aspects of the ASDEFCON templates (eg, Attachment B) contact the ASDEFCON and Contracting Initiatives (ACI) help desk: procurement.ASDEFCON@defence.gov.au.

For help related to the technical-managerial aspects of the ASDEFCON templates (eg, the SOW and annexes), contact the ASDEFCON SOW help desk: ASDEFCONSOW.Support@defence.gov.au.

ATTACHMENT P, PERFORMANCE ASSESSMENT

Introduction

Attachment P itself provides a table of contents that includes the KPIs listed in Annex A and the Performance Implementation Period (PIP) in Annex B. Once KPIs have been added to Annex A the table of contents field should be updated.

The KPI names are inserted in the heading of Annex A where they sit inside bookmarked fields. Once these headings are updated, clicking on each other occurrence and pressing the 'F9' key should ensure consistent naming throughout the document.

Although positions for five KPIs are included in the template, this is for illustration purposes only. An appropriate number of KPIs must be determined for each contract.

1 OVERVIEW OF PERFORMANCE ASSESSMENT

1.1 Scope

| | |
|--------------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To introduce the performance assessment process, and its purpose. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | This introductory statement explains how the performance-assessment process, as part of the overall performance management framework, is intended to encourage Contractor performance against the required Commonwealth Outcomes. These Outcomes appear in Annex A. |
| <u>Drafter's Action:</u> | This clause should be retained in the RFT without alteration. |
| <u>Related Clauses:</u> | COC clause 1.3, Objectives |

1.2 Performance Assessment and Performance Management – For Information Only

| | |
|--------------------------|---|
| <u>Status:</u> | Optional |
| <u>Purpose:</u> | To provide an overview of the performance assessment process in this Attachment in relation to the overall performance-management framework for the Contract. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>The clause explains the scope of the performance assessment process as addressed by each of the level 1 clauses in this Attachment, and related clauses elsewhere in the Contract.</p> <p>This clause is optional. It contains a summary similar to the 'General' section of this guide. It is for information purposes only, to provide context to persons involved with the operation of the <i>ASDEFCON (Support)</i> performance-management framework, who are not initially familiar with this process.</p> |
| <u>Drafter's Action:</u> | The drafter should remove reference to the PIP when a PIP is not required (ie, delete or replace clause 1.2.3c with 'Not used'). |
| <u>Related Clauses:</u> | As listed in the clause itself. Attachment M, Glossary |

2 KEY FEATURES OF THE PERFORMANCE ASSESSMENT PROCESS

2.1 Required Outcomes and KPIs

| | |
|--------------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To state the intent of the performance assessment process and the use of KPIs. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>This is the first in a number of clauses that specify how the performance assessment process functions. The clause identifies the intent of the performance assessment process as a way of evaluating the Contractor's contribution, through the various Services it provides, to the required Outcomes. Outcomes to which the Contractor contributes are listed in clause 2.1 of Annex A.</p> <p>The second clause emphasises a quantitative assessments of performance, as opposed to a subjective or opinion-based assessment. The third clause identifies that the KPIs may be amended when a PIP is applicable to the Contract.</p> |
| <u>Drafter's Action:</u> | Drafters need to determine if the Contract will include a PIP and include or delete the optional clause accordingly. Otherwise, this clause should be retained in the RFT without alteration. |
| <u>Related Clauses:</u> | <p>Other subclauses of clause 2.</p> <p>Clause 2 to Annex A to Attachment P, Required Outcomes and KPIs table.</p> |

2.2 Review Period

| | |
|--------------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To specify the function of Review Periods in the application of the performance assessment process. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Review Periods are primarily used to break up each year into periods that are more effective for monitoring the Contractor's Achieved Performance, acting in response to poor performance, and for further planning and management of Services. It is also ineffective to delay the Performance Payments calculations until the end of the year, with any reduction in payment, implemented as a remedy, is remote from the occurrence of poor performance.</p> <p>Clause 2.2.1 states that a Review Period is applied to the measurement of KPIs.</p> <p>Clause 2.2.2 identifies the start of the first Review Period for all KPIs, and that the length of Review Periods for each KPI is specified in Annex A (clause 2.2), which allows different Review Periods for different KPIs. The default start date for Review Periods is the Operative Date (OD), which is defined in COC clause 1.5. If the start date is other than the OD, which is likely if the initial Services are quite limited for KPI measurement, then this clause should be amended to identify a more suitable start date. Drafters should also refer to the PIP in Annex B, and Annex C to Attachment B, as the start of the first Review Period does not mean that all KPIs and all aspects of the performance assessment process are applied from that date.</p> <p>Clause 2.2.3 states that each subsequent Review Period commences immediately after the previous one. Also, refer to Annex C to Attachment B, which allows KPI assessment to be suspended during a Review Period.</p> |
| <u>Drafter's Action:</u> | Amend clause 2.2.2 if the OD is not the start date of the first Review Period. |
| <u>Related Clauses:</u> | <p>Other subclauses of clause 2.</p> <p>COC clause 1.5, Operative Date</p> <p>Annex C to Attachment B, Performance Payments</p> <p>Annex A to Attachment P, for the Required Outcomes and KPIs table</p> |

2.3 Achieved Performance and the Adjusted Performance Score

| | |
|----------------|------|
| <u>Status:</u> | Core |
|----------------|------|

| | |
|--------------------------|--|
| <u>Purpose:</u> | To identify the generation of the Adjusted Performance Scores (APS) as the output of the performance assessment process for each KPI, in accordance Attachment P. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Performance results are measured for each KPI, over the Review Period, and then converted into an APS in accordance with Attachment P. An APS is an expression of performance as a percentage of the Required Performance Level.</p> <p>When the Contractor's Achieved Performance is equal to the Required Performance Level, the APS is 100%. Variations above and below the Required Performance Level should reflect the relative value of the performance results. For example, if performance exceeds this Required Performance Level, but it is of no added value to Defence, then the APS remains at 100%.</p> <p>The reason for using the APS is that it allows results for all KPIs, which use different Performance Measures and measurement bases (units of measure), to be converted into a percentage score. For example, an Achieved Performance of 70% for one KPI, and an Achieved Performance of 48 hours for another KPI, may match their respective Required Performance Levels, so both would result in an APS of 100%.</p> <p>As part of the performance assessment, this clause requires the APS for each KPI to be calculated in accordance with Annex A. Subsequently, under Annex C to Attachment B, the APS is used to calculate the Performance Payments for the KPI for the given Review Period.</p> |
| <u>Drafter's Action:</u> | This clause should be retained in the RFT without alteration |
| <u>Related Clauses:</u> | Other subclauses of clause 2. Annex A to Attachment P, KPI definitions |

2.4 Performance Bands

| | |
|------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To state and explain the use of Performance Bands as part of the performance assessment process. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>The APS for each KPI, as described in clause 2.3, is used to express performance as a percentage score and reflects a relative value of the measured Services when compared to the Required Performance Level. Importantly, the 'relative value' (of the APS) is not a direct representation of actual performance (ie, achieving a KPI 50% of the time does not lead to an APS of 50%). Rather, it relates broadly to the impact on Defence of the reduced Services and, ultimately, a predetermined reduction in the Performance Payment, which is intended to motivate the Contractor to recover performance to the Required Performance Level.</p> <p>Attachment P allows for two fundamental types of KPI: a 'standard' KPI where an Achieved Performance is determined for the entire Review Period before calculating the APS, and an 'event-based' KPI where an Event Performance Rating (EPR) is calculated for each of a small number of events occurring during a Review Period, before an APS is calculated.</p> <p>There is more than one way to define a system that determines an APS, such as:</p> <ol style="list-style-type: none"> using a 'performance curve' (as in Figure P-1 of Attachment P, copied at Figure 1 below) with mathematical formulae used to define the relationship between Achieved Performance and APS (or between event performance and the EPR); or via a look-up table that uses columns and rows to define the required relationships⁶. <p>By default, both types of KPI (standard and event-based) under <i>ASDEFCON (Support)</i> use a 'performance curve' to express performance as a percentage of the</p> |

⁶ Look-up tables are not typically used in *ASDEFCON (Support)*; however, they may be used in the *PBC Module for ASDEFCON (Support Short)* and two of the four Worked KPI Examples (on the Procurement and Contracting DRN site) use look-up tables.

Required Performance Level. A formula is used to represent each straight-line segment of the performance curve. By dividing the possible range of performance results for a KPI into four Performance Bands, the APS is calculated using a different formula for each Performance Band, as illustrated by the blue line in Figure P-1 of Attachment P. The same principle is applied to calculating an EPR, as illustrated by KPI-02 in Annex A to Attachment P

Performance Bands are not only used to identify the formula for the APS. They are also used in other parts of the Contract to link remedies, and the need for remedial actions, to levels of performance (eg, the need for a Remediation Plan in COC clause 6.12 is triggered by results in Performance Bands C and D) and as criteria for the offer of an Award Term as a reward (COC clause 1.9).

Clauses 2.4.1 to 2.4.3 state the use of the four Performance Bands and refers to the methods for converting Achieved Performance into an APS (or the performance results for an event into an EPR) for each KPI defined in Annex A.

Clause 2.4.4 describes, as a 'word picture', the relative value and impact on Defence when results occur in each of the four bands. This word picture is useful when defining the boundaries between each Performance Band, provided that the drafter has an understanding of the impact that degraded performance is likely to have on the required Outcomes.

Ideally, the level of performance provided will always fall in Performance Band A, at or above the Required Performance Level. If performance in Performance Band A above the Required Performance Level provides a tangible and justifiable benefit to Defence, then this may be linked to a Performance Incentive, which increases the Performance Payment for the KPI in accordance with Annex C to Attachment B. The amount of the Performance Incentive is calculated from an APS that is greater than 100%, as determined by a formula for this band. If it cannot be argued⁷ that there are justifiable benefits to Defence, then the APS will equal 100% for all of Performance Band A. The ability to offer a Performance Incentive is limited and, if contemplating this option, drafters should seek advice from the PBC CoE.

Achieved Performance results occurring in Performance Bands B and C are used, for a standard KPI, to calculate an APS. For an event-based KPI, the performance result for the event is used to calculate an EPR, with all EPRs in the Review Period averaged in order to calculate the APS. The APS (using either KPI type) is then used to calculate a reduction in the Performance Payment for the Review Period in accordance with Annex C to Attachment B. The difference in the slope of the line in each Performance Band ultimately effects how rapidly the Performance Payment will decrease as performance drops further below the Required Performance Level.

Achieved Performance in Performance Band D will result in an APS of zero, and no Performance Payment is payable for that KPI in that Review Period. Such a result would incur other remedies such as Remediation Plans, suspended payments or, if there is no other option, termination. Importantly, a result in this band does not mean that 'there was no performance'; it means that the performance was inadequate to the extent that it did not represent reasonable value for the Commonwealth and, in most cases, had a significant adverse impact on Capability.

Theoretically, a formula could be used in Performance Band D to calculate another financial remedy, for example, liquidated damages, but this is difficult to justify in logic terms (ie, to link a straight-line formula for Achieved Performance to the costs that the Commonwealth will incur). **Drafters should not use a formula for Performance Band D that creates a negative APS – other remedies should be used to address such poor performance.**

Drafter's Action: This clause should be retained in the RFT without alteration.

Related Clauses: Other subclauses of clause 2.

Annex A to Attachment P, KPI definitions

⁷ As a value for money principle, Defence should acquire 'what is required', as identified by the RPL. Paying extra for performance that exceeds the RPL can be difficult to justify.

2.5 Missing Data

| | |
|--------------------------|--|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To identify the actions to be taken if measurement data is incomplete. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Due to unplanned outages of information management systems used for recording, or a lapse in other tools used to collect measurement data, missing data is a possibility. Measurement data that is missing has the ability to distort the calculation of the Achieved Performance results and thus the performance assessment process in general. The first course of action is usually to replace the missing data from an alternate source, if that source is sufficiently accurate for measuring or calculating the same parameters.</p> <p>Clause 2.5.1 identifies that missing parameters and measurement data, which cannot be replaced, may be excluded from the calculations or otherwise compensated for through COC clause 6.4, Performance Relief and Postponement. Assuming that there was no obvious change in performance for that period (ie, the data hasn't been 'lost' in order to hide a particular failing), the options for the Commonwealth may be to assume the average performance of the Review Period applied to the period of missing data, or to omit the period from the Achieved Performance calculations.</p> <p>Clause 2.5.2 identifies, in descending order, the options for replacing missing data for a KPI, if required to do so.</p> |
| <u>Drafter's Action:</u> | This clause should be retained in the RFT without alteration. |
| <u>Related Clauses:</u> | Other subclauses of clause 2. Annex A to Attachment P, KPI definitions Clause 10 of the draft SOW, including the V&VP and SSVM. |

ANNEX A TO ATTACHMENT P, KEY PERFORMANCE INDICATORS

1 INTRODUCTION

1.1 Purpose

| | |
|--------------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To state the purpose of this annex. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | Nil. |
| <u>Drafter's Action:</u> | This clause should be retained in the RFT without alteration. |
| <u>Related Clauses:</u> | Nil |

2 OUTCOMES AND KPI INFORMATION

2.1 Context – For Information Only

| | |
|--------------------------|--|
| <u>Status:</u> | Optional |
| <u>Purpose:</u> | To provide context to the required Outcomes, and the use of KPIs as indicators of the Contractor's contribution to these Outcomes, through the Services. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>This optional clause may be used to provide an introductory narrative. The next clause, clause 2.2, tabulates KPIs against contributory outcomes provided by the Contractor's Services, and the Outcomes in Defence Capability that are achieved by the combination of Contractor and Defence inputs. However, the table in clause 2.2 is not able to provide context for the relationships between Outcomes, contributory outcomes, and KPIs. Hence, this clause may be used to provide context for the relationships between Outcomes and contributory outcomes.</p> <p>This clause 2.1 can also be used to explain how a KPI relates to Outcomes or why KPIs have been constructed in a particular manner, without going into too detail. For example, a fleet of vehicles may be used by three different units, each in a different state of 'readying, ready, and reset'; meaning that an 'availability KPI' may be needed for each unit, or that a single KPI has differently-weighted components for each unit. Note that in this example there is no need to provide a rationale for how weightings were determined or to define those weightings within the clause, it only provides context. Other situations that may benefit from explanation include the difference between requirements for training and operational units, or between the different types of systems supported under the one contract.</p> <p>Note that this clause is advisory, for information only, and should not be used to place any requirements on the Contractor. It should not include phrases such as 'the Contractor shall'.</p> |
| <u>Drafter's Action:</u> | Develop this clause where it provides benefit, or replace with 'Not used'. |
| <u>Related Clauses:</u> | Clause 2.2, KPIs and traceability to Outcomes |

2.2 KPIs and traceability to Outcomes

| | |
|------------------|--|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To identify the relationship between Outcomes and the use of KPIs to evaluate the Contractor's performance, and to tabulate basic parameters for each KPI. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>This clause, comprising a table and an explanation for the table, identifies how KPIs are traceable to the high-level Outcomes. It also states the Required Performance Level and Review Period duration for each KPI.</p> <p>Outcomes and Contributory Outcomes. Table P-1 is used to identify the required Outcomes. Examples of Outcomes could include 'Mission System Capability',</p> |

'system availability' and 'deployability', as may be derived from Materiel Sustainment Agreement (MSA) product schedules.

Outcomes should be (either directly or indirectly) aligned to the Capability-level outcomes required by Defence. Contributory outcomes are the contributions to be provided by the Contractor to enable those Outcomes to be realised. Contributory outcomes must be consistent with, and may set, the nature and scope of the Contract. KPIs should then be logical measures of the contributory outcomes.

For example, an Outcome to achieve a 'Directed Level Of Capability (DLOC)⁸' may have three contributory outcomes provided by the Contractor: 'Mission Systems available to Defence', 'supply of spares to Defence Maintenance', and 'Training simulator availability'. Each contributory outcome would be measured using a different KPI. The supply of spares, for example, could have a KPI of Demand Satisfaction Rate⁹, which is calculated using two Performance Measures (defined as parts of the KPI) for the satisfaction of high and routine priority Demands.

Key Performance Indicators. KPIs should be 'SMART', meaning that they are Specific, Measureable, Attainable, Relevant and Timely.

KPIs should also be independent of each other, as much as possible, to minimise interactions and any unexpected consequences. Using KPIs in a framework where they overlap, complement each other, or conflict, can be counter-productive. For example, having KPIs for availability and scheduled maintenance effectiveness can be counter-productive because maintenance effectiveness contributes to availability and, hence, this could result in 'doubling-up' on rewards and remedies. The Contractor could also trade-off the two KPIs (eg, if the achievement of depot maintenance effectiveness is looking poor, but availability is on target, resources could be switched to depot maintenance if a small reduction in availability, for a small financial loss, is better than a larger loss on maintenance). In these cases, it can be better to keep the main KPI (ie, availability) and use the other (eg, depot maintenance effectiveness) as an OPM to track the 'health' of the related Services, and subsequently use the OPM to fault-find the cause of availability shortfalls.

Minimising conflicting situations is a good reason why **there should be no more than 3-5 KPIs in a Contract**. The only situation where this number would be exceeded is where there are multiple programs or work-streams within a Contract (eg, maintenance of two different classes of ship, or support at three bases with different operational requirements and priorities). In these circumstances, there may be a couple of KPIs per major group of activities. For small groups or smaller value work activities, alternative rewards and remedies should be considered, rather than trying to have a KPI to cover every aspect of the Services.

As the number of KPIs increases, the incentivising power of individual KPIs is diminished (eg, because the At-Risk Amount is spread over more KPIs). The associated measurement and management burden also increases, which translates into unproductive cost overheads for both parties.

Required Performance Levels. The Required Performance Level for each KPI must be determined for each contract and its unique set of Products, even when a common KPI is used. Required Performance Levels should be derived from the Outcome to which each KPI is linked; however, it can be difficult to translate a high-level objective into a Required Performance Level. For example, a Materiel System may be required to achieve a level of operational availability and a particular rate of effort. To translate these requirements into the number of systems provided to Defence units, for operation and Defence maintenance and supply activities, involves many intermediate factors to be considered and a good understanding of the Support System.

The Required Performance Level applies to performance over a full Review Period. For most KPIs, this is generally in the form of a calculated average result, but it may be a count or the sum of results for the Review Period. If the Capability Manager's requirement is expressed in terms of daily, weekly or monthly requirements, low

⁸ For further information on DLOC, refer to ADDP 00. 2, 'Preparedness and Mobilisation'.

⁹ As discussed for KPI-02 under the [Worked KPI Examples](#) (on the Procurement and Contracting DRN site), demand satisfaction rate is a difficult Performance Measure to use.

performance over a short period does not always mean that the Required Performance Level for a three-month Review Period will not be met.

For event-based KPIs, the Required Performance Level will apply to all events of the applicable type that occur within the Review Period. For example, an event could be the completion of a significant scheduled maintenance activity (ie, a ship 'maintenance availability') and the KPI would measure 'schedule performance' against an Approved fleet plan. This scenario may result in one, a few, or no events occurring in a given Review Period; however, each event is judged against the Required Performance Level.

The Required Performance Level is intended to represent the Commonwealth's requirement and it should be treated like a specification (eg, it should not be artificially inflated because it is considered 'too easy to meet', nor should it be physically impossible to achieve with the number of systems in the fleet). The level of performance required to obtain an incentive (or to minimise disincentives) must also be considered. Setting a level too high, when the system is not able to be supported at that level or when Defence has control of inputs (eg, quantities of spares), is more likely to encourage tenderers to address the risk with an increased price, rather than encourage greater performance and value for money.

Table P-1 requires the Required Performance Level for each KPI to be inserted. This may be a simple 'static' requirement (that does not vary over time), or a 'dynamic' time-variant requirement where the Required Performance Level changes from one month to the next. An example is for Mission System availability that allows for variations in fleet size, scheduled deeper maintenance activities, and modification programs that can all be forecast, resulting in a target level that will change on a monthly basis (usually documented in the V&V Plan). Where the description of a Required Performance Level is too large to fit in Table P-1 it should be included in the definition of the KPI and cross-referenced from the table.

Review Periods. Table P-1 also lists the Review Periods for each KPI. Review Periods will often be the same for all KPIs in a Contract; three months is typical. However, Review Periods may be of different lengths for different KPIs within the one contract. For example, two KPIs may have quarterly Review Periods while one is reviewed annually because it requires an annual cycle for consistent and meaningful measurement (eg, to address seasonal variations). The duration of each Review Period will be based on the needs of each KPI and the practicality of applying the performance-management framework through the submission of Performance Measurement Reports and conducting Performance Assessment Reviews. If a Review Period is too short, results may be statistically unrepresentative due to the influence of short-term fluctuations. However, too long a Review Period may mean that the KPI cannot provide a timely response to poor performance.

Drafter's Action: Drafters need to fill in the Outcomes, contributory outcomes and KPIs in Table P-1, based on the objectives for the Contract and the performance to be measured.

Drafters are to insert the Required Performance Level and the Review Period for each KPI into the table – generally, these are not determined until after a detailed analysis of each KPI has been performed. If a KPI is 'time-variant' (ie, the performance requirement changes over time), then the entry into the table may instead be a reference to the Approved V&VP.

Of note, only the titles of the Outcomes are required in the table (actual numbers related to operational performance may be classified); however, the Required Performance Levels require quantitative details.

Related Clauses: KPI definitions in the subsequent clauses of this Annex.

Clause 4 of Annex C to Attachment B, Performance Implementation Period, some KPIs can be suspended during the PIP.

3 KPI-01: [...INSERT KPI NAME...]

Status: Core

Purpose: To specify each KPI and the method for determining the APS.

Policy: Nil

Guidance: From this clause on, each level 1 clause in this Annex addresses an individual KPI. The note to drafters preceding this clause provides an overview of the example KPI clauses included for KPI-01, a 'standard KPI', and KPI-02, an 'event-based' KPI. Draft clauses 3 and 4 provide a basic structure for the consistent definition of KPIs, in the understanding that each such explanation may be quite different and the clauses will need to be amended considerably.

These KPI-definition clauses, as outlined below, are repeated for each KPI with a number of minor differences for the two types of KPIs (standard and event-based). The definition of each KPI includes subclauses covering:

- a. a description of the KPI, which also relates the KPI to its purpose;
- b. measurement requirements for the KPI, including any specific planning details or tools to be used for data collection;
- c. an explanation of how, for a standard KPI, the Achieved Performance for the whole of the Review Period is determined; and
- d. how the APS is calculated.

Note that the process for an event-based KPI, with a different clause structure, is discussed in the guidance below for clause 4.

The *ASDEFCON (Support)* template does not prescribe any particular KPIs. The PBC CoE provides advice and assistance for formulating individual KPIs.

Drafter's Action: Refer to each subclause for drafter's actions.

Related Clauses: Nil

3.1 KPI Explanation

Status: Core (with options)

Purpose: To describe the purpose of the KPI and how the subsequent clauses are structured to calculate the APS from the measured data.

Policy: Nil

Guidance: This initial explanation describes for the reader (Commonwealth and Contractor) the purpose of the KPI and how it relates to Contractor performance.

For clause 3.1.1, the name of the KPI should be updated (it is a cross-referenced field that is updated by placing the cursor in the field and pressing 'Shift+F9'). A written description of the KPI should also be inserted. The description should be succinct and explain the purpose and relevance of the KPI. It also provides an opportunity to explain the relationship between the Outcome(s) in clause 2.1 and the KPI, if the description in clauses 2.1 and 2.2 were limited in specific detail.

Clause 3.1.2 described the steps for determining the APS for the KPI using the structure of the subsequent level-2 clauses. This clause applies to standard KPIs (as opposed to event-based KPIs) and should not need amendment other than to update clause cross-references.

Drafter's Action: As above.

Related Clauses: Other subclauses of clause 3.

3.2 Performance Results for KPI-01

Status: Core (with options)

Purpose: To describe the method for calculating the performance results for a KPI.

Policy: Nil

Guidance: This clause consists of a series of optional clauses to be used as a guide for drafting a description of how the results for the KPI are determined including, when applicable, details of measurement and any conditional criteria for measurement and/or calculation.

An important point to understanding this clause is that performance results may be determined by the day, week, month, a different period, or on a continuous basis (eg,

ICT system availability). These results would generally be reported monthly in the Support Services Verification Matrix (SSVM). By contrast, the Achieved Performance is determined for a full Review Period in accordance with clause 3.3.

Clause 3.2.1 provides a precise description of how performance against KPI-01 is measured, calculated, or otherwise determined. Two example clauses, as options, are included in the template as suggestions for structuring these clauses. Option A uses a mathematical formula to calculate the KPI, based on a number of factors that must be defined. Option B includes a list of parameters or measurements that can be used to determine the Achieved Performance for the KPI (eg, a count) and used with clause 3.3. In some cases the measurement required for the KPI will be inherently obvious in its name (eg, hours lost for X per period); however, a clear definition should always be provided to avoid any doubt (eg, if there is a difference between normal business hours and other hours).

Where a formula is inserted (Option A), each factor used in the formula (which may be Performance Measures in their own right) should be defined. In some instances, a single formula may be very complex, and it may be preferable to make a statement regarding the formula. For example, the KPI could be based on a number of parameters (eg, Demand Satisfaction Rates for different priority levels), while the KPI itself is a weighted score (or average) of those parameters. Sometimes a second calculation should be included (eg, for a weighted average across priority levels).

If the KPI is determined without a formula (Option B), then the parameters or other forms of measurement data may be taken directly from an information management system, or other routine reporting method. For example, the KPI based on a count of events or exception reports.

Clause 3.2.3 allows for basic measurement conditions for either Option A or B to be entered, such as measurement at a set time of the day. This can be expanded to include the measurement at a set location, on a continuous basis, or any other requirement. The clause allows for other conditions or 'rules' for the measurement, scoring, or other data collection method needed to be described, to support determination of the KPI. Detailing these rules or conditions can be achieved with a list, as per draft clause 3.2.3, and/or a flowchart, a decision logic tree, a scoring table or some other diagrammatic representation under optional clause 3.2.4. For example, conditions and decision logic within a flow chart could explain what would happen if a Defence unit changed the priority of a spares Demand half way through an order being processed, or the conditions for determining full, partial and not mission capable systems when used in a scoring regime.

Clauses 3.2.5, which is also optional, allows for specific performance measurement tools and data collection activities to be specified. This clause provides the option to explicitly identify the required information sources, including the use of Defence information management systems or other tools (eg, customer reporting). This approach would only be used where the Commonwealth wishes to mandate a particular information source; otherwise, the Contractor will identify the information sources in the V&VP. If not required, this option should be deleted.

Drafter's Action: The drafter is to describe both how performance against the KPI will be determined and include, as applicable, the calculations, measurements and data sources. The drafter should develop the clause in a way that best defines the individual KPI.

Related Clauses: Other subclauses of clause 3.

3.3 Calculating the Achieved Performance for KPI-01

Status: Core

Purpose: To define method for calculating the Achieved Performance for the KPI.

Policy: Nil

Guidance: This clause 3.3 describes how Achieved Performance for the KPI over the Review Period is calculated or otherwise determined. How performance results are determined for a KPI can be different to how the Achieved Performance for the KPI is determined, because Achieved Performance applies to a full Review Period.

For example, a KPI may be measured on a daily basis in a way that reflects a contributory outcome of the Services (eg, daily availability). By contrast, the Achieved Performance applies to the whole Review Period, which for this example would be an average of the daily system availability data for the Review Period. In some cases a KPI may have a 'monthly performance level' (eg, a time variant KPI) for operational planning purposes, and a Required Performance Level that applies for a three-month Review Period. For example, a KPI for 'system availability' could be planned to meet the Capability Manager's monthly performance targets, measured daily, and reported monthly in the SSVM, but for the Contractor it is assessed by the Achieved Performance over the Review Period. The Achieved Performance may be a 'weighted average for monthly system availability', or recalculated as the average of the results for every day in the Review Period.

The Achieved Performance will often be based on an average, a weighted average, or some other method that spans the results for the entire Review Period. If required, appropriate formula (eg, for averages or for weighting different parameters), conditions, and diagrams may be added under clause 3.3.1.

Drafter's Action: The drafter is to fill in the applicable formula and factors for calculating the Achieved Performance, for the KPI for the Review Period

Related Clauses: Other subclauses of clause 3.

Clause 10.2 of the draft SOW, V&V Planning.

3.4 Calculating the Adjusted Performance Score for KPI-01

Status: Core

Purpose: To describe the method for determining the APS.

Policy: Nil

Guidance: The APS is used to convert the Achieved Performance for a KPI (using any unit of measure) into a percentage score. The percentage score then provides a common basis, across KPIs, for subsequent use in determining Performance Payments in accordance with Annex C to Attachment B.

As discussed, there are a number of methods for determining an APS from the Achieved Performance, including calculations using formulae for a performance curve or look-up tables. The main method used in *ASDEFCON (Support)* is the performance curve.

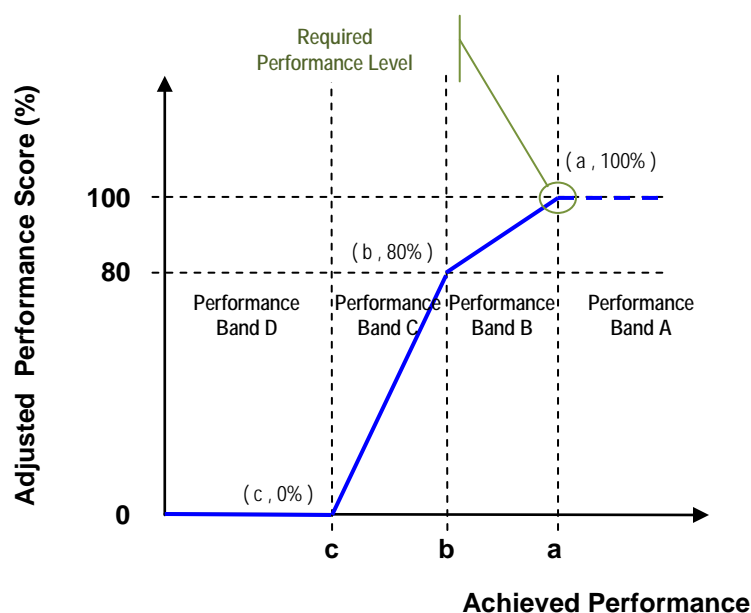


Figure 1: Performance Curve (Performance worse to left)

Adjusted Performance Score Curves. Achieved Performance can be translated into an APS using a 'performance curve', as shown in Figure P-1 of Attachment P and Figure 1 (above).

Figure 1 is for KPIs where a higher numerical value for Achieved Performance is better ('more is better'), and poorer than required performance appears on the left. However, for other KPIs, such as those based on average delay time, a lower numerical result is better ('less is better') and the shape of the curve is reversed, as shown in Figure 2 (below).

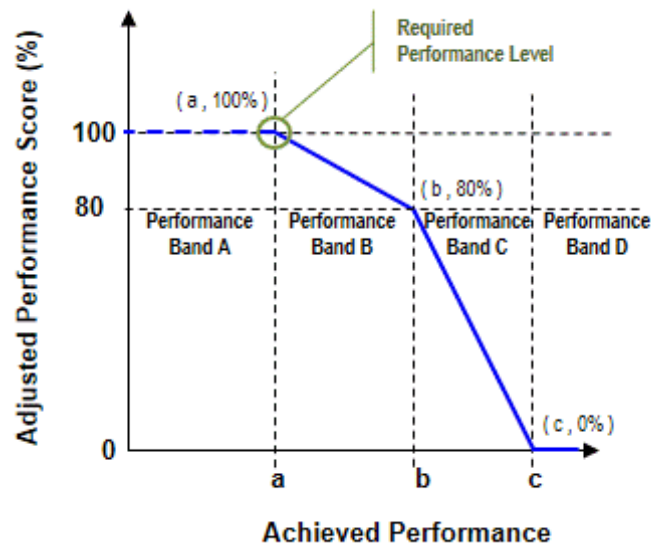


Figure 2: Performance Curve (Performance Worse to the Right)

For accuracy, the APS must be determined using the applicable formula for the performance curve – not by 'reading off the chart'.

When defining the performance curve, the first step is to define the Required Performance Level and the Performance Bands. The Required Performance Level should be derived from the high-level Outcomes defined in MSA product schedules, as discussed regarding clause 2.2 and Table P-1 of Attachment P.

Defining the Performance Bands requires further thought. The transition from Performance Band C to D represents the level where meaningful Outcomes cannot be achieved as described by the word picture in clause 2.4.4 of Attachment P (not that there was 'no performance'). For example, if a fleet has a Required Performance Level of 70% for system availability this equates to an APS of 100% and defines the boundary between Performance Bands A and B. Then if an availability of 40% allows for some training, but no real value in terms of Capability, the APS would drop to 0%, thus defining the boundary of Performance Bands C and D. The boundary between Performance Bands B and C is more difficult to define but may be interpreted from the word pictures in clause 2.4.4 (not by dividing the range of performance in half). It should be remembered that performance is measured over the duration of a Review Period and that daily fluctuations of results, between one band and another, will even out over time.

Having determined the boundaries between the Performance Bands, the next step is to determine the relative worth of performance by defining the formula for the performance curve within each Performance Band.

A mathematical, straight-line formula (ie, $y = m * x + c$, defined using a gradient (m) and starting coordinates), defines the conversion from the Achieved Performance (x-axis / horizontal axis) to the APS (y-axis / vertical axis) in each Performance Band. Depending upon the Performance Band that the Achieved Performance falls into (in Table P-2), a different formula is used to calculate the APS. Performance Band D has a very simple formula (ie, APS = 0%). Likewise, if no Performance Incentive will be offered, the formula for Performance Band A is also simple (ie, APS = 100%).

The turning point or 'knee' in the performance curve, at the boundary of Performance Bands B and C (shown as corresponding to point 'b' in Figure 2), must be identified to determine the formulae for these two bands. If the boundaries are set using the word pictures (in clause 2.4.4 of Attachment P, as discussed above), the next

question is how much of a reduction in the APS is appropriate (ie, when used to calculate Performance Payments)? By default, an APS of 80% is used in the *ASDEFCON (Support)* template, as this will suit most KPIs. A different APS could be used but the value will depend on the individual Services, consequences of performance at that level, the width of Performance Bands B and C, and so on. If contemplating anything other than 80%, then advice from the PBC CoE should be sought.

Once the boundary for Performance Bands B and C and the turning point have been identified, the formula for these bands can be developed, as indicated by the notes in clause 3.4 and Table P-2. For Performance Band B, the Required Performance Level and an APS of 100% provide the first point (shown as '(a, 100)' in Figure P-3 of Attachment P, and Figure 1). The values for the turning point (b, 80%) in Figure P-3 must be determined, as described above. These values are entered into Table P-3 and then used in Table P-2 to set the boundaries of the Performance Band B (at 'a' and 'b') and to develop the formula for the APS.

The formula should be reduced to the simplest possible form (eg, by solving the part of the formula for the gradient), so that only the Achieved Performance (ie, the value to be input during the Contract) and the result are non-numerical values. For example:

$$\text{APS} = 2.5 \times (\text{Achieved Performance} - 60) + 80\%$$

could be the formula for Performance Band B, if the Required Performance Level was 68% (point 'a') and 'b' was 60% so that the gradient of the line (change in 'y' values over the change in 'x' values) was 2.5 (ie, 20% / 8%).

Similar to Performance Band B, the formula for Performance Band C must also be calculated and entered into Table P-2.

Performance Incentives. In some instances, over-performance (ie, Achieved Performance that is above the Required Performance Level) may be utilised by, and be beneficial for, Defence. This can be encouraged using Performance Incentives. To provide a Performance Incentive, *ASDEFCON (Support)* uses a simple method of increasing the APS above 100% when in Performance Band A, and then using this score to calculate a Performance Incentive. Hence, if a Performance Incentive will be offered, then a formula for a line rising up from 100% is required for Performance Band A.

In this instance drafters should also be aware of the upper limit placed on the APS when used to calculate the Performance Incentive in clause 3.3 of Annex C to Attachment B. For example, while an APS of 108% may be possible, it could be capped at 105% under clause 3.3 of Annex C to Attachment B. Drafters considering a Performance Incentive should seek advice from the PBC CoE.

Drafter's Action: Drafters need to determine if the method of obtaining the APS from the Achieved Performance will use a set of performance curves, or some other method. When using performance curves (the default method), the boundaries and formulae need to be defined for each Performance Band and inserted into Table P-2. It is important that each formula is thoroughly checked, and example calculations performed, to ensure that they are correct and produce the expected APS for various input values of Achieved Performance.

Related Clauses: Other subclauses of clause 3.

Clause 2 of Attachment P, which summarises the determination of the APS.

Annex C to Attachment B, which defines how Performance Payments will be determined from the APS.

COC clause 1.9, Term (extensions are dependent on performance not occurring in Performance Bands C and D).

COC clause 6.1, Performance

COC clause 6.3, Performance Shortfalls

COC 6.12, Remediation of Performance Problems

COC clause 7.9, Suspending Payments

COC clause 13.2, Termination for Contractor Default

SOW clause 3.4.5, Performance Assessment Reviews

SOW clause 10.3.5, Support Services Verification and Validation Activities

4 KPI-02: [...INSERT KPI NAME...]

Status: Optional (the number of KPIs is optional with the minimum number being one)

Purpose: To define the requirements for an event-based KPI and the method for determining the EPR and APS.

Policy: Nil

Guidance: This clause 4 in the template provides an alternative to the standard KPI example used in clause 3 by providing the clause structure for an event-based KPI.

Drafter's Action: Refer to level 2 clauses.

Related Clauses: Nil

4.1 KPI-02 Explanation

Status: Core

Purpose: To define the event-based KPI and the steps to determine the EPR, APS and the Performance Band for the Review Period.

Policy: Nil

Guidance: This clause 4.1 is similar to clause 3.1 except that it is applied to an event-based KPI. The initial explanation describes for the reader (Commonwealth and Contractor) the purpose of the KPI and how it relates to Contractor performance. Clause 4.1 also requires the drafter to describe event or types of events against which the KPI will be measured. For example, the event may be the completion of major scheduled Maintenance activities (ie, maintenance availability for ships) and the KPI measures the overrun in schedule compared to the planned completion date (eg, the number of days late when compared to a fleet availability plan).

Drafters need to describe the event(s) in clause 4.1.1 and then refer to them in clause 4.1.2. Notably, there may be more than one type of event measured by the one KPI, provided that the performance measurement and impact on the required Outcomes remain similar, if not the same.

Clause 4.1.2 also describes the process, by the structure of level 2 clauses, for determining the EPR, APS, and designating a Performance Band for the Review Period. This process differs from the standard KPI, as described in this and subsequent clauses.

Drafter's Action: Insert a description of the KPI and the related events as indicated.

Related Clauses: All sub-clauses under clause 4.

4.2 Performance Results for KPI-02

Status: Core

Purpose: To define the event-based KPI and the method to determine the performance result for the KPI for a single event.

Policy: Nil

Guidance: This clause 4.2 is similar to the clauses, including a number of options, under clause 3.2. Due to the nature of the KPI, not all of the options in clause 3.2 apply here. For example, the details for measuring delay from a scheduled event date to the actual event date do not need to refer to the information systems from which data will be collected, as the measurement should be obvious.

The clause retains an option for a flow chart, which may be useful for determining a 'score' for an event.

Drafter's Action: Tailor the clause, as required, to define the measurement and calculation of performance results against KPI-02 when measured for the specified events.

Related Clauses: All sub-clauses under clause 4.

4.3 Calculating the Event Performance Rating for KPI-02

Status: Core

Purpose: To define the method for calculating the EPR using the results for an event measured and/or calculated in accordance with clause 4.2.

Policy: Nil

Guidance: Clause 4.3 uses a performance curve to calculate the EPR for a single event that is measured by KPI-02. Accordingly, this clause has a similar structure to the calculation of an APS for KPI-01, under clause 3.4, but it only applies to a single event.

For the EPR the relevant Performance Bands and boundaries (points a, b and c) must be defined. The Required Performance Level (point a) for an event is typically finishing to a schedule (ie, no delay / no schedule slippage); accordingly, this is often best described by a less is better (as in less delay) performance curve, as shown in Figure P-5 of Annex A to Attachment P.

Like the calculations for KPI-01, achieving the Required Performance Level (point a) translates into a 100% EPR (rather APS) on the vertical axis. Likewise, the turning point (point b on the horizontal axis) is set to match 80% for the EPR on the vertical axis,

The performance result points (a, b and c) are recorded in Table P-5 and used to update and calculate the formulae in Table P-4. In this example, there is a change in the formula (compared to the example for KPI-01 above) to implement a 'less is better' performance curve.

For illustrative purposes, Figure P-5 may be updated to reflect the KPI's individual Performance Curve values.

Drafter's Action: Tailor the tables and Figure P-5 to match the required calculation of EPR from the event performance result obtained from clause 4.2.

Related Clauses: All sub-clauses under clause 4.

4.4 Calculating the Adjusted Performance Score for KPI-02

Status: Core

Purpose: To define the method for calculating the APS using one or more EPRs calculated in accordance with clause 4.3.

Policy: Nil

Guidance: The APS for an event-based KPI, such as KPI-02, is an average (mean) of the EPRs for each event occurring in the Review Period. The average is calculated from the sum of the EPRs divided by the number of events in the Review Period. The EPRs are the results from clause 4.3.

When there is only one event in the Review Period then the APS equals the value of the EPR. If there were no events, the APS is taken to be 100% (eg, there were no schedule delays).

Drafter's Action: The description of the event(s) need to be added.

Related Clauses: All sub-clauses under clause 4.

4.5 Achieved Performance and Performance Band for KPI-02

Status: Core

Purpose: To determine the Performance Band for KPI-02, as Performance Bands are used in relation to other remedies and for other clauses within the COC.

Policy: Nil

Guidance: Several clauses in the COC and SOW apply when the Achieved Performance results for a KPI fall into a particular Performance Band. The Performance Band is used when considering whether to offer the Contractor an Award Term, and it is used to trigger remedies for poor performance. However, the APS can be the average of a few EPRs (clause 4.4), rather than being calculated from continuous performance for the Review Period. Hence, clause 4.5 determines what Performance Band would apply if the APS had been calculated from a single performance value by using the performance curve.

For explanation, and by referring to Figure P-5 in Annex A to Attachment P, the average of event performance (horizontal axis) cannot be used to find the average of the EPRs (ie, the APS) when results from two or more events fall into different Performance Bands (the bend in the performance curve prevents a 'simple' calculation of the average). An average of the event performance will only work if all results occur in the same Performance Band, which cannot be guaranteed, or when there is only one event in the Review Period and therefore the Performance Band for that one event would be correct.

Fortunately, the relevant COC and SOW clauses only require that the Performance Band to be known. Accordingly, clause 4.5 need only designate a Performance Band rather than calculate an equivalent to the Achieved Performance value used by a standard KPI. This can be achieved by designating a Performance Band based on the APS (ie, from the vertical axis) and by using a simple look-up table, Table P-6. Note that the boundary between Performance Band B and C and the turning point in the curve is set to the default value of 80% (corresponding to point 'b'). If a different value is used then Table P-6 will need to be modified. Otherwise, drafters should not need to edit clause 4.5.

Drafter's Action: If the default value of 80% is not used for the turning point in the performance curve, then amend Table P-6 accordingly.

Related Clauses: All sub-clauses under clause 4.

COC clause 1.9.11, Award Term criteria

COC clause 6.3, Performance Shortfalls

COC clause 6.12, Remediation of Performance Problems

COC clause 7.9, Suspending Payments

COC clause 12.2, Termination for Contractor Default

SOW clause 3.4.5, Performance Assessment Reviews

SOW clause 10.3.5, Support Services Verification and Validation Activities

ANNEX B TO ATTACHMENT P PERFORMANCE IMPLEMENTATION PERIOD

| | |
|------------------|---|
| <u>Status:</u> | Optional (To be included when Contract will include a PIP). |
| <u>Purpose:</u> | To define the requirements for the PIP and to ensure the managed introduction of the performance measurement regime (and, as a result, the performance management framework including the rewards and remedies). |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Annex B to Attachment P specifies requirements for the PIP. The purpose of the PIP, as described by clause 1.1, is to manage the introduction of the performance measurement regime, consistent with the Ramp Up of Services under the Contract. Where the Contract does not require a Ramp Up, or Ramp Up is of short duration and the full performance measurement regime, and performance management framework, can be applied shortly after OD, then a PIP may not be required and the clauses in the Annex can be deleted and replaced with a single 'Not used'.</p> <p>Where the Services will Ramp Up over an extended period (eg, greater than six months) a PIP allows the performance management framework to be introduced in proportion to the expansion of Services.</p> <p>Often it is impractical to apply a full performance management framework from the start of a Contract. The most challenging issue is the appropriate matching of performance to payment when aspects of the Contractor's organisation, processes or the delivery of systems from an acquisition contractor, remain transitional and unstable. As the main contractual impact of the PIP is to affect the Performance Payments, the associated changes to At-Risk Amounts and KPI weightings are detailed in Annex C to Attachment B.</p> <p>For KPIs to function during a PIP, they may need to be defined in scalable terms. For example, an availability KPI that requires a percentage of the total fleet to be available, rather than a set number (eg, X vehicles, communication terminals, etc., available at all times) would (once the fleet has reached a minimum size) naturally scale as systems are delivered from acquisition. Note that KPIs with Required Performance Levels that change over time (time-variant or 'scalable' KPIs) may be designed to compensate for changes occurring early in a PBC; however, this is only applicable to a limited number of KPIs. Other KPIs will need to be changed to suit the Ramp Up of Services, defined for each stage of the PIP. For example, following deliveries from an acquisition project, if the Required Performance Level for a KPI in the mature state was 12 systems (eg, aircraft, patrol boats, etc) available from 16, then interim modifications to the KPI might be '4 from 6' and '7 from 10' in a two-stage PIP, before changing to the 'mature state'.</p> <p>The SPO / contracting team will need to determine the parameters for the PIP before they can be incorporated by the drafter. Parameters to be considered include the duration of the PIP, the number of stages in the PIP and their duration (measured in Review Periods), which KPIs will apply in each stage and how the KPIs are to be modified to 'grow' with the Ramp Up of Services. All of these issues should be considered during the development of the contracting strategy.</p> |

Drafter's Action: Refer to guidance for individual clauses.

Related Clauses: Annex C to Attachment B

1 INTRODUCTION

1.1 Purpose

| | |
|------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To state the purpose of the PIP and the role of this Annex in managing the introduction of the performance measurement regime. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | Clause 1.1.1 states the purpose of this Annex with respect to defining the PIP overall and then defining the corresponding changes to the KPIs. |

Drafter's Action: This clause may be retained in the RFT without alteration.

Related Clauses: Clause 2.2 of Attachment P, which includes the commencement date
Annex A to Attachment P, KPI definitions
Annex C to Attachment B, Performance Payments

1.2 Objectives

Status: Core

Purpose: To state and acknowledge the objectives of the PIP and to acknowledge what the PIP is not intended to do.

Policy: Nil

Guidance: Understanding the objectives of the PIP, and what the PIP is not intended to be used for, is important to the success of the PIP.

Clause 1.2.1 identifies that objectives of the PIP. These are to ensure the effectiveness and integrity of the measurement systems and data for KPIs, and to scale the performance measurement regime consistent with the Ramp Up of Services and the quantities of Products Being Supported, particularly where the Products are being delivered from an acquisition project over an extended period of time (eg, several years). The PIP also allows some leeway to be built into the Ramp Up period (eg, to allow for processes to be bedded down and for a 'learning curve' for the Contractor's organisation).

Establishing a measurement processes during the PIP may need to consider the methods and points in the process where data is collected. For example, the delivery of items to the Commonwealth could be measured at the time of departure from the Contractor, or the time of arrival at Commonwealth Premises. Evaluation during the PIP would consider which point in the process is most appropriate for measurement considering the available reporting systems and Contractor control / influence over the process. If, as a result, the point of measurement should be changed, this may be reflected in the Contractor's V&VP and/or require a Contract Change Proposal (CCP) to amend Attachment P, depending on the detail included in Attachment P. Note that in response to Tender Data Requirement (TDR) E-12, tenderers may propose such changes in their response to the RFT. Importantly, such changes must not alter the fundamental intent of the KPI.

Clause 1.2.2 states what the PIP is not intended to be used for. This clause is important and, essentially, means that the PIP is not to be used to significantly change the KPIs or performance management framework. Allowing such changes would significantly change the scope and intent of the Contract and undermine the integrity of the tender process.

Drafter's Action: The sub-clause list under clause 1.2.1 should be reviewed and updated to accord with the requirements of the Contract, ensuring that such changes do not conflict with clause 1.2.2.

Clause 1.2.2 should be retained in the RFT without alteration.

Related Clauses: Attachment P
Annex A to Attachment P, KPI definitions
TDR E-12, Performance Management

2 KPI-01 [...INSERT KPI NAME...]

2.1 Overview of PIP Stages for KPI-01 – FOR INFORMATION ONLY

Status: Optional

Purpose: To summarise and provide context to the changes to the KPI during the PIP.

Policy: Nil

Guidance: This clause provides an overview that summarises the KPI during the PIP. If the PIP is single-staged or otherwise simple, this clause may not be required and can be replaced with 'Not used'.

Useful information, for providing context, may include following:

- a. The stage of the PIP when the KPI is first measured. For example, in a three stage PIP a KPI may be measured from the start of stage one, two, or three, depending on when the related Services commence and when they can be measured.
- b. Broadly, how and/or why the KPI changes for stages of the PIP. For example, that the KPI is being adjusted for the number of systems delivered from a Contract (Acquisition) or when Services commence at new locations.
- c. How measurement changes during stages of the PIP. For example, an interim measurement process may be required in the first stage of the PIP while various information management systems, which will be used in the longer term, are being established.

This clause should be minimal, a few sentences, sufficient to provide a summary that spans the PIP stages without duplicating the details contained in the subsequent clauses or the preceding purpose and objectives clauses.

Importantly, as a 'for information only' clause, drafters must not include any obligations to be placed on the Contractor in this clause, and the summary must be consistent with subsequent clauses.

Drafter's Action: When required, draft a brief summary explaining how the KPI changes over the duration of the PIP.

Related Clauses: All other clauses under clause 2.

2.2 PIP stage 1 changes to KPI-01

| | |
|------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To describe the changes to be made to the definition of the KPI during the first stage of the PIP. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | This clause is used to detail the required changes to the definition of this KPI for the first stage of the PIP. These changes are to explain the differences between what is required in this stage of the PIP and what is defined under Annex A to Attachment P for the mature state of this KPI. |

If the definition of the KPI is exactly the same as in the mature state (ie, in Annex A), a single simple clause may be inserted, such as 'this KPI in the stage of the PIP is defined in accordance with Annex A to Attachment P'.

If the KPI is not measured during this stage of the PIP, a single clause may be inserted, such as 'this KPI is not measured during this stage of the PIP'.

Where the KPI is used and its definition must be modified to reflect the applicable changes, the template includes draft clauses to be tailored. These draft clauses are actually modified clauses from Annex A. For example, instead of stating that 'Achieved Performance for KPI-XX for a Review Period shall be determined ...', these draft clauses refer to this stage of the PIP; for example, 'Achieved Performance for KPI-XX, in each Review Period within this stage of the PIP, shall be determined ...'.

The description of KPI-01 under this clause 2.2 of Annex B should highlight the changes, for this stage of the PIP, to the definition of KPI-01 in clauses 3.1 to 3.4 of Annex A. Where the drafter has developed the structure and content of clauses in Annex A different to the template, this clause 2.2 of Annex B should be updated to be consistent with that structure and content. The template clauses in Annex B provide a starting point but only if the clauses in Annex A suited the individual KPI.

Where the Required Performance Level and boundaries between Performance Bands are different in this stage of the PIP, then the table for the APS calculations must be included in this clause and, like for Annex A, the formulae needs to be verified.

Drafter's Action: When the KPI is not measured or the definition of the KPI is no different to the definition in Annex A, insert a simple clause to identify this fact.

When the KPI does differs in this stage of the PIP to the definition in Annex A, drafters should develop the clauses to highlight the differences during this stage of the PIP with an aim of minimising any duplication of identical clauses (although this may be unavoidable when trying to provide adequate context).

Related Clauses: Clauses 3.1 to 3.4 of Annex A to Attachment P.

2.3 PIP Stage 2 changes to KPI-01

Status: Core

Purpose: To describe the changes to be made to the definition of the KPI during the second stage of the PIP.

Policy: Nil

Guidance: This clause has the same requirements and guidance as clause 2.2 of Annex B, but applies to the changes to the definition of this KPI in the second stage of the PIP when compared to the definition in clauses 3.1 to 3.4 (or 4.1 to 4.5, if applicable) of Annex A.

Likewise, clauses describing changes to the KPI in subsequent stages, if applicable, have the same requirements.

Drafter's Action: As for clause 2.2 of Annex B (above).

Related Clauses: Clauses 3.1 to 3.4 (4.1 to 4.5, if applicable) of Annex A to Attachment P.

3 KPI-02 [...INSERT KPI NAME...]

Status: Optional

Purpose: To define changes to this KPI during the PIP.

Policy: Nil

Guidance: This clause, and subclauses, describe changes to the definition of KPI-02 during each stage of the PIP, when compared to the definition in clauses 4 of Annex A to Attachment P.

This process is repeated for each subsequent KPI defined in Annex A to Attachment P.

Drafter's Action: As for clause 2.2 of Annex B (above).

Related Clauses: Matching KPI definition clauses of Annex A to Attachment P.

ATTACHMENT Q, OTHER PERFORMANCE MEASURES

| | |
|--------------------------|--|
| <u>Status:</u> | Optional (To be included when Other Performance Measures (OPMs) are required under the Contract). |
| <u>Purpose:</u> | To specify the OPMs used within the Contract. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | Attachment Q is used to specify the OPMs used by the Contract. OPMs may be used for a number of reasons, as listed at clause 1.1. OPMs are not always required and, if this is the case, then the contents of the Attachment may be deleted and replaced with 'Not used'. |
| <u>Drafter's Action:</u> | Refer to guidance for individual clauses. If no OPMs are used in the Contract, all subordinate clauses should be deleted and replaced with a single 'Not used'. |
| <u>Related Clauses:</u> | Nil |

1 INTRODUCTION

1.1 Purpose

| | |
|------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To state the purpose of this Attachment. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | This clause identifies the possible purposes for including OPMs in a Contract, which are explained in the following paragraphs. |

The effectiveness of KPIs is crucial for aligning a Contractor's priorities with Defence's required Outcomes. An ineffective KPI will, ultimately, result in rewards and remedies that do not truly reflect the value of the Services provided and that may, in the long term, be detrimental to both parties. To ensure that KPIs are effective, one or more OPMs may be required for validation. For example, a KPI for system availability could be ineffective if too much slack is built into the Depot Maintenance (DM) schedule. Hence, a 'Depot Maintenance effectiveness' OPM, which compares the actual duration and labour hours against a forecast, can help to determine if the nominated number of systems in DM, used when setting the Required Performance Level for a KPI, is appropriate. Another example OPM, which can be used to assess the effectiveness of KPIs for the supply of RIs, is the rate (%) of RIs being delivered and then rejected during Acceptance checks. A high number, or sudden rise, could indicate that the KPI is becoming ineffective (by driving undesirable behaviour) by encouraging deliveries at the expense of more thorough maintenance.

Some OPMs may be used to measure the performance of the Contractor even though that performance is not linked to calculating a Performance Payment (which by definition requires a KPI). In these cases, the OPM may be linked to another reward or remedy. For example, an OPM could measure performance against a compliance requirement, where failure to achieve the required level could result in the need for a Remediation Plan that is also linked to the Suspending Payment provisions. In some cases, these OPMs can be used as 'gates' that must be successfully passed before the Contractor can receive Performance Payments calculated from KPIs, or to be granted Award Terms. For example, no Performance Incentive will be payable against a KPI if there has been a failure to comply with a particular requirement (eg, safety, quality or other regulation) that is measured using an applicable OPM. In this instance, the OPM would usually be specified in this Annex and then identified within the list of conditions to be applied before determining a Performance Payment (and could be added to COC clause 7.11, Restrictions on Certain Payments).

OPMs can be used to measure the 'health' of the Materiel System, including Mission Systems / prime equipment and Support Systems. A common OPM for Mission Systems / prime equipment is the reliability or arising rate of failures for various subsystems, which acts as a lead indicator for increasing maintenance demands as

a system ages. An OPM for the Support System could be the number of 'no fault finds' during Contractor maintenance, which can indicate poor training of Defence maintainers (who are submitting serviceable Repairable Items for repair), poor but not necessarily incorrect technical data (eg, hard to follow), or Support and Test Equipment (S&TE) that is ineffective or out of calibration. Usually OPMs in this category require some form of management response, such as investigation and corrective action or future planning.

A number of OPMs may be used for monitoring contractor performance in terms of Work Health and Safety (WHS), in accordance with the *WHS Act (2012)*. OPMs for WHS include 'lost time injury', incidence rates, frequency rates, and 'average lost time rate', which can be subdivided by location and/or nature of work. These could be considered either as measures of performance, or of Support System health. There are risks of associating WHS with the performance management framework, such as discouraging open reporting, hence specialist advice should be sought if considering linking WHS to remedies (aside from Remediation Plans which are built into the template).

In some cases, an OPM could be used for a combination of reasons. For example, the reason that a KPI is becoming less effective could be related to a change in the 'health' of a component of the Materiel System. A more specific example of this is that the Required Performance Level for a KPI may become less and less achievable (hence unrealistic and ineffective) because of the deteriorating reliability of an ageing system (ie, the OPM for system health can be used to validate the achievable nature of the Required Performance Level).

Drafter's Action: Tailor the generic list of reasons for having OPMs to match only those reasons for the individual OPMs included in this Annex. This is normally the last part of the Attachment to be tailored.

Related Clauses: Nil

1.2 Content

Status: Core

Purpose: To list the OPMs defined in this Attachment, and to act like a table of contents.

Policy: Nil

Guidance: Each OPM used in the Contract is listed in this Attachment, and this clause lists the OPMs for quick reference.

Drafter's Action: The drafter must update the names of the OPMs in the subclause list. This is done by creating the heading for the OPM and bookmarking its name. This list is then constructed using a cross-reference to the bookmark to ensure consistent naming, as explained for KPIs in Attachment P.

Related Clauses: Nil

1.3 Changes to OPMs

Status: Core

Purpose: To ensure that OPMs can be updated relatively easily, under the Contract, in order to maintain their effectiveness.

Policy: Nil

Guidance: This clause is based on an acknowledgement that the OPMs in Attachment Q at the start of the Contract may need to be updated, and then to agree to a process for incorporating required changes. Some changes to specified OPMs can be managed by updating the Contractor's governing plan for V&V (either the SSMP or V&VP, depending on the complexity of the Contract); such changes might relate to the Contractor's process for measuring and recording data. Other changes, including the introduction of new OPMs if necessary, will require a CCP.

Drafter's Action: The drafter is to insert the applicable governing plan, V&VP or SSMP, into clause 1.3.3.

Related Clauses: Nil

2 [... INSERT OPM NAME ...]

2.1 Purpose of the OPM

| | |
|--------------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To identify the purpose for including the individual OPM in the Contract. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>The major reasons for using OPMs are described at the start of the guidance for Attachment Q, and listed at clause 1.1. This clause identifies the specific purpose, or purposes, for including the individual OPM in the Contract.</p> <p>Draft clauses are provided for each of the three main reasons for having an OPM. One or more of the optional clauses should be selected as the basis for describing the purpose(s) for which the OPM will be used.</p> <p>If the OPM assists to validate the effectiveness of a KPI, then the KPI's name (and number for cross-referencing purposes) should be inserted into the clause for option A.</p> <p>If the OPM is used to evaluate Contractor performance that is not linked to a KPI, then a description of the Services being measured should be inserted for option B.</p> <p>If the OPM is to be used in measuring 'system health', 'efficiency' or some other factor, then the description should be developed and included in the clause for option C.</p> <p>If the OPM is used to measure aspects of Materiel System 'health' or usage factors, then Option D provides a standard starting phrase for a description.</p> <p>Although four options are given in the template, other options and descriptions are possible and, as such, appropriate clauses should be developed by the drafter. An OPM may also have more than one purpose; for example, it could be used to evaluate Services (option B) and have a role in validating a KPI (option A).</p> <p>How the OPM is used by the Commonwealth may also be important. Accordingly, there are three further optional clauses.</p> <p>Option A is to be included if the OPM will be considered by the Commonwealth when deciding whether to offer an Award Term to the Contractor. Note that for performance against an OPM to be considered in the Award Term criteria, clause 1.9 of the COC requires this to be annotated against the OPM in Attachment Q.</p> <p>Option B is also related to Award Terms. In this case, the clause refers to a 'trend' in Contractor performance. For example, for WHS, where a deteriorating safety record, assessed over several years, may be a reason not to offer an Award Term.</p> <p>Option C includes a generic sentence structure to help drafters develop other explanations regarding the intended use of an OPM.</p> <p>Other than Award Terms, where Contractor performance is measured against an OPM a Remediation Plan is the generic solution for addressing shortfalls in performance or compliance. Use of Remediation Plans does not need to be included in this Attachment.</p> |
| <u>Drafter's Action:</u> | The drafter is to select and complete the applicable options for describing the purpose(s) of the OPM. If an OPM will be considered for an Award Term then the drafter needs to ensure that this is clearly stated as part of the purpose. |

Related Clauses: Clause 1.1, Purpose

2.2 Description of the OPM

| | |
|------------------|--|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To define the individual OPM and how it will be measured. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | This clause enables the drafter to include a definition the OPM and how it is to be measured. This can be accomplished in much the same way as the 'explanation' of a KPI, using mathematical formulae and conditional flow charts if necessary. |

For further guidance for defining the OPM, the guidance for KPIs in clause 3.1 of Annex A to Attachment P should be helpful. In addition, details for the OPM will need to include the measurement period and, if used to assess Contractor performance, applicable performance requirements or thresholds.

Drafter's Action: The drafter must complete the applicable descriptions for the OPM.

Related Clauses: Nil

ANNEX C TO ATTACHMENT B, PERFORMANCE PAYMENTS

Note: The following guidance is specific to Annex C to Attachment B. However, Annex C also requires applicable details for the Recurring Services Fee and the Excluded Services Fee to be defined in Annex B to Attachment B.

1 INTRODUCTION

| | |
|--------------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To define the scope and purpose of Annex C to Attachment B. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | The introduction outlines the purpose of Annex C, in defining how Performance Payments are calculated, and refers to the COC for making those payments. |
| <u>Drafter's Action:</u> | This clause should be retained in the RFT without alteration. |
| <u>Related Clauses:</u> | Nil |
| <u>Further Reading:</u> | Nil |

2 AT-RISK AMOUNTS

2.1 Allocating the At-Risk Amount to KPIs

| | |
|------------------|---|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To define the At-Risk Amount and how it is allocated to KPIs for Review Periods. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>The total of the At-Risk Amount is a portion of the Core Services Fee placed 'At-Risk' and paid in full or in part to the Contractor based on the level of Contractor performance, as measured against KPIs. This clause identifies the At-Risk Amount and details how the At-Risk Amount is allocated to each of the KPIs based on their 'weighting', and subsequently divided up for the Review Periods.</p> <p>Firstly, it should be noted that the Core Services Fee is separate to S&Q Services, Task-Priced Services and those Recurring Services that are classed as 'Excluded Services' in Annex B to Attachment B. Hence, the Core Services Fee, to which the At-Risk Amount is applied, is usually a significant portion of, but does not include all of the payments to be made under the Contract. Other performance-management methods may be required for Services paid for by other means (eg, milestone payments for the completion of stages in a high-value S&Q Service).</p> <p>In the initial clause, drafters are to identify the At-Risk Amount as a percentage of the Core Services Fee. The higher the percentage, the greater the incentivising power of the At-Risk Amount; however, there may also be implications for tenderers. If the percentage is set too high, some potential tenderers may not bid due to a higher level of risk, while other tenderers may address this risk by increasing their tendered price. Setting a low percentage will diminish the financial incentive of the At-Risk Amount – although, even a small actual reduction in payment could have a significant influence on the Contractor's management team and their reputation.</p> <p>The At-Risk Amount is expressed as a percentage because the Core Service Fee can vary over time due to prices being escalated with indexation, exchange rates (if paying in foreign currencies), price reductions as Efficiencies are implemented, and for changes in the scope of Recurring Services or the costs to meet a change in the rate of effort. Accordingly, the At-Risk Amount is not defined as a set dollar amount, but must be determined as a percentage of the Core Services Fee for each month in the Review Period.</p> <p>Drafters could leave this percentage for the tenderers to propose; however, as a general principle, the Commonwealth should always define its requirements. As such, the drafter should set the required percentage or, as a minimum, identify a</p> |

narrow range of allowable percentages in TDR D-3, rather than leave each tenderer to propose different percentages in their tender responses (an evaluation of this nature would be quite challenging).

Depending on the relative importance of the KPIs, different portions of the At-Risk Amount are allocated to different KPIs, creating a 'weighting'. Drafters are to insert the weighting for each KPI in Table C-1. The sum of the weightings for all KPIs must add to 100% (in order to allocate 100% of the At-Risk Amount).

The Review Period, over which time the Contractor's performance against the KPI is measured, assessed and reviewed, must also be identified. Review Periods for each KPI, which are typically three months but can be of a different duration for different KPIs, are also defined by the drafter in Table C-1.

Some KPIs may also allow a Performance Incentive to be paid as part of the Performance Payment (refer clause 3.3 below). Drafters need to identify in Table C-1, those KPIs for which a Performance Incentive will be offered.

Drafter's Action: Drafters must insert the At-Risk Amount, as a percentage of the Core Services Fee, into the first clause. Drafters must insert the percentages representing the KPI weightings into Table C-1, and the number of Review Periods per KPI, copied from Attachment P, into Table C-1.

Related Clauses: All subclauses under clause 2.

Annex B to Attachment B, Recurring Services.

Annex A to Attachment P, which defines each KPI and its Review Period.

TDR D-3, Items relevant to Performance Management.

Further Reading: Nil

3 PERFORMANCE PAYMENTS

Status: Core

Purpose: To define how the Performance Payments are calculated.

Policy: Nil

Guidance: A Performance Payment, for each KPI for a Review Period, comprises a payment of all or part of the At-Risk Amount for that KPI in that Review Period, and a Performance Incentive if applicable to that KPI.

The At-Risk Amount represents the pre-agreed amount (expressed as a percentage) that can be deducted from the Core Services Fee in response to reduced performance by the Contractor. The At-Risk Amount is not a penalty nor is it a form of liquidated damages (ie, it does not refund costs incurred by the Commonwealth); instead, it represents a value associated with the degree of non-achievement against required contractual outcomes.

Performance Incentives are optional, and may be applied to all, some, or no KPIs. These act as a reward for over-performance if it is determined that this adds value for the Commonwealth.

Drafter's Action: Refer to subordinate clauses.

Related Clauses: Refer to subordinate clauses.

Further Reading: Nil.

3.1 Calculation of the Performance Payment

Status: Core

Purpose: To define the Performance Payment.

Policy: Nil

Guidance: A Performance Payment comprises a payment of the At-Risk Amount and a Performance Incentive (if applicable to that KPI).

This clause identifies that both clauses 3.2 and 3.3 calculate components of the Performance Payment.

Drafter's Action: This clause should be included in the RFT without alteration

Related Clauses: Clause 3.2, Entitlement to the At-Risk Amount
Clause 3.3, Entitlement to Performance Incentives

3.2 Entitlement to the At-Risk Amount

Status: Core

Purpose: To define how the payable portion of the At-Risk Amount is calculated.

Policy: Nil

Guidance: The portion of the At-Risk Amount to be paid is calculated for each KPI and Review Period. The payment amounts for each KPI are summed to determine a total At-Risk Amount payable for the applicable Review Period. If KPIs have different Review Periods, then not all At-Risk Amounts will be calculated at the same time. Performance against KPIs and the resulting payments are considered at a Performance Assessment Review (SOW clause 3.4.5).

The formula in clause 3.2 is used to determine the At-Risk Amount payable for a KPI in a Review Period. The At-Risk Amount, in clause 2.1, is expressed as a percentage because the Core Services Fee can vary during a Review Period (as discussed above). Accordingly, the Core Services Fee (CSF in the formula), as defined in Annex B to Attachment B, must be determined for the Review Period before the formula can be used to calculate a payment amount (PA).

For example, if KPI-01 had a three-month Review Period, and KPI-02 requires a year for measurement and has an annual Review Period, then the Core Service Fee would need to be determined for the respective Review Periods (ie, three or 12 months) before calculating the payment amount for each KPI. This will capture variations in the Core Services Fee that occur over the two Review Periods.

The formula for the payment amount is explained as follows. The CSF for the Review Period is multiplied by the At-Risk Amount (ARA) and weighting (W), which determines an actual At-Risk Amount (in dollars) for that KPI in that Review Period. This dollar amount is multiplied by the APS for the KPI for that Review Period, as determined in accordance with Attachment P. The result is a payment amount for that KPI and for that Review Period.

An APS may be greater than 100% if a Performance Incentive is allowed. Accordingly, to calculate only the At-Risk Amount portion of the Performance Payment, the APS is capped at 100%, as defined for APS for this formula.

Drafter's Action: This clause should be included in the RFT without alteration

Related Clauses: Clause 3.3, Entitlement to Performance Incentives
Clause 3.4, Interim Payments
Annex A to Attachment P

Further Reading: Nil

3.3 Entitlement to Performance Incentives

Status: Optional (To be included if Performance Incentives are included in the Contract)

Purpose: To define how the Performance Incentive amounts for a KPI are calculated.

Policy: Defence Procurement Policy Manual (DPPM), Chapter 4
Commonwealth Procurement Rules 2019, Section 4

Guidance: A Performance Incentive for a KPI is way of encouraging a level of performance that is greater than the Required Performance Level. However, Defence may only pay a

supplier an incentive payment if the superior performance is of benefit to Defence and the added cost, for performance above the specified requirements, can be justified. Any additional payments need to meet the value-for-money requirements in the Commonwealth Procurement Rules.

Where this value-for-money test can be met, the Commonwealth Representative may be prepared to offer a Performance Incentive as a reward for the additional performance. If no Performance Incentive is to be offered, then the optional clause 3.3 should be deleted and replaced with a single 'Not used'.

Background:

If planning to use Performance Incentives in *ASDEFCON (Support)*, the drafter should be aware of how the clauses function. The template includes a simplistic method for determining Performance Incentives, with the following characteristics:

- a. Performance Incentives may only be used with KPIs in Attachment P. Any other Incentive Payments that could be offered under a contract must be defined separately.
- b. A Performance Incentive, when offered, is determined for a KPI on an individual basis and will only be payable subject to the conditions in COC clause 7.11, Restrictions on Certain Payments.
- c. A Performance Incentive is, for simplicity, determined as an extension of the At-Risk Amount and calculated using the same Review Periods (ie, a KPI can't have quarterly Review Periods and an annual Performance Incentive).
- d. A Performance Incentive, when offered for a KPI, is calculated when the APS exceeds 100%. A Performance Incentive is not a set amount; it is to be calculated proportional to the APS and At-Risk Amount for that KPI.
- e. The value of the Performance Incentive is determined by two main factors. First the APS for the KPI in Performance Band A must exceed 100% (up to a defined cap). Second is the weighting for the KPI and KPIs with a larger weighting will offer larger incentives. For example, an APS of 105% for a KPI with a 50% weighting is worth five times that of a KPI with a 10% weighting. As a result, Performance Incentives may only be effective on the KPI(s) with the greatest weighting.

If this simplistic approach to Performance Incentives is too inflexible, drafters will need to develop an alternative methodology and should seek expert commercial and technical assistance with experience in *ASDEFCON (Support)*.

Clauses:

Clause 3.3.1 identifies when a Performance Incentive may be paid and defines the formula used for its calculation. If a Performance Incentive applies to a KPI, the APS for the KPI exceeds 100% (calculated in accordance with Attachment P), and for the requirements of COC clause 7.11 have been met, then the Performance Incentive is calculated.

The formula is similar to the one used to calculate the portion of the At-Risk Amount to be paid, in accordance with clause 3.2, but it applies to that portion of the APS that exceeds 100%. Refer to the guidance for Annex A to Attachment P for details on how the APS may be defined to exceed 100%.

Clause 3.3.2 provides a table that caps Performance Incentive amounts by defining a maximum APS for each KPI. Note that, as the At-Risk Amount is determined from the Core Services Fee, and the Core Services Fee can vary, the maximum amount payable for the Performance Incentive is also variable.

Drafter's Action: Drafters need to either include the optional clauses for Performance Incentives, or replace the clauses with a single 'Not used'. Drafters need to insert the maximum APS (the caps) into the table under clause 3.3.2, while the rest of the clause should be included in the RFT without alteration. Note that the main tailoring effort is in defining an appropriate APS formula for the KPI for Performance Band A, in Annex A to Attachment P.

Related Clauses: Clause 3.2, Entitlement to the At-Risk Amount.

Clause 3.5, Suspension of Measurement of a Specified KPI.

Clause 4, Performance Implementation Period (the PIP excludes Performance Incentives).

COC clause 7.11, Restrictions on Certain Payments.

Annex A to Attachment P

Further Reading: Nil

3.4 Provisional Payments

Status: Core

Purpose: To define the process for making interim payments for Performance Payments.

Policy: Nil

Guidance: So as not to withhold all of the At-Risk Amount from the Contractor until the end of a Review Period, this clause allows provisional (interim) payments of the At-Risk Amount during the intervening months. A reconciliation, or 'true up', is required before the final payment for the Review Period, in order to match the Performance Payment to what was actually earned (see also clause 3.5 if KPIs are suspended).

The need for provisional payments depends on the duration of the Review Periods. If all Review Periods are one month, then provisional payments are not relevant. In that case, the clause could be replaced with a single 'Not used'; however, the clause can be retained even with one-month Review Periods, without changing the function of the Contract. For longer Review Periods the clause must be retained.

Provisional payments (of the Performance Payment excluding any Performance Incentive) are made monthly, except for the last month of the Review Period. In other words, the Core Services Fee for those months is paid in full, including the percentage representing the At-Risk Amount, pending a subsequent reconciliation of payments. The clause clarifies that provisional payments do not apply to the last month of the Review Period.

The amount of Performance Payment payable is determined at the Performance Assessment Review. A reconciliation of the provisional payments paid, against the Performance Payments payable for the Review Period, is required. For example, over a three-month Review Period two-thirds of the At-Risk Amount would be paid as provisional payments. If the Performance Payment payable for the Review Period is less than the provisional payments already paid, then the Contractor will owe the difference to the Commonwealth. If the total Performance Payment payable for the Review Period exceeds the two-thirds already paid, then a final payment is made so that the total amount paid for the Review Period equals the total Performance Payment earned for the Review Period.

Any money owed to the Commonwealth at the end of a Review Period (ie, the Performance Payments are less than the provisional payments) is recovered in accordance with COC clause 13.7, either by deducting the amount from a future claim or requiring it to be paid within 30 days.

Drafter's Action: If provisional payments will not be made, due to one-month Review Periods, then clauses below the heading may be (but do not need to be) replaced with a single 'Not used'. Otherwise, drafters are to include clause 3.4 without alteration.

Related Clauses: Clauses 3.2 and 3.3, used to determine the Performance Payment amount.

COC clause 13.7, Right of the Commonwealth to Recover Money

SOW clause 3.4.5, Performance Assessment Reviews.

Further Reading: Nil

3.5 Suspension of Measurement of a Specified KPI

Status: Core (with optional clauses for Performance Incentives)

Purpose: To define the process for adjusting Performance Payments if the measurement of a KPI is suspended for all or part of a Review Period.

Policy: Nil

Guidance: From time to time, there may be reasons to suspend the usual assessment process for one or more KPIs. This clause is used to determine how the Performance Payment calculation is adjusted to account for such periods.

There can be a number of reasons for suspending KPIs for example, to stop the assessment of a KPI during the annual stand-down period from late December to early January. Alternatively, a KPI may be suspended because of an urgent modification or other event, which could not have been reasonably foreseen or allowed for by the Contractor, and will prevent the Required Performance Level for the KPI from being achievable – effectively, this example pre-empts a claim for performance relief being made in accordance with COC clause 6.4. Note that suspending the assessment process doesn't always mean that the measurement process is suspended; the need for continued measurement would be determined on a case-by-case basis.

If a KPI is suspended for 70% or more of a Review Period (ie, the KPI is assessed from less than 30% of the Review Period), then the Contractor is entitled to the full At-Risk Amount for the KPI as a Performance Payment. However, a Performance Incentive (if applicable to a KPI) will not be available.

For periods of suspension that are less than 70% of a full Review Period (ie, assessment covered more than 30% of the Review Period), the Performance Payment is determined on a pro-rata basis. This means that the full At-Risk Amount applicable to the KPI is paid for the period of suspension, and Performance Payments are calculated in the usual manner for the performance achieved over the remainder of the Review Period when performance was being assessed. For example, in a three-month Review Period, if a KPI is suspended for one month the At-Risk Amount attributable to that KPI is payable for that month, while the KPI is measured and the APS used, in the usual manner, to determine the Performance Payments for the other two months.

The calculation of the At-Risk Amount payable can be considered in three parts. The first part ($CSF \times ARA \times W$) determines the total At-Risk Amount for the KPI for the Review Period. The second part determines portion calculated in the 'normal' manner (ie, the assessed period) using the APS ($= APS * C / D$). The third part calculates the full At-Risk Amount (attributable to that KPI) for the days in the Review Period when assessment was suspended ($= 1 - C / D$).

If applicable to one or more KPIs, an optional clause can be included to calculate the Performance Incentive. The equation only calculates a Performance Incentive for the 'normal' (ie, measured) portion of the Review Period as no Performance Incentive is payable during the period of suspension – if the KPI is suspended the Commonwealth cannot benefit from over-performance.

The threshold of 70% of the Review Period is suggested as a 'rule of thumb'. In a three-month Review Period, this means that the KPI is assessed, as a minimum, for just under one month. In many cases, any period of measurement and assessment less than this has the potential to produce non-representative results (ie, not statistically reliable). This threshold would be different for different Contracts and may be amended, given careful consideration of the KPIs and a minimum period of measurement to provide a true representation of performance.

Drafter's Action: Drafters may consider amending the 70% threshold used for the maximum period of suspension, based on the validity of measurements over any lesser or greater period. Drafters are to include or exclude the optional clauses for Performance Incentives, as applicable to those KPIs used in the Contract. Otherwise, sub-clauses should be included in the RFT without alteration.

Related Clauses: Clause 2.1, Allocating the At-Risk Amount to KPIs
Clauses 3.2 and 3.3, used to determine the Performance Payment amount.

COC clause 6.4, Performance Relief and Postponement

Further Reading: Nil

4 PERFORMANCE IMPLEMENTATION PERIOD

Status: Optional (used if it is not feasible to commence a full performance management framework from the outset, and there is a need to transition to a mature state).

Purpose: To allow for changes in the application of Performance Payments during the PIP.

Policy: Nil

Guidance: The PIP allows the Performance Payments and the associated performance assessment processes to be introduced in one or more stages, when it is inappropriate to commence the full provisions of the performance management framework at the very start of a Contract. The PIP allows the framework to be introduced gradually during an initial period of instability in the provision of Services, for the reasons described in clause 1.2 of Annex B to Attachment P.

Background:

The requirements for the PIP are defined in two locations. Changes to the KPIs, including the stage of the PIP when measurement begins, are detailed in Annex B to Attachment P. Changes to Performance Payments for the PIP (adjusted via KPI weightings and the At-Risk Amounts) are defined under clause 4 of Annex C to Attachment B. Annex B to Attachment P and clause 4 (of Annex C to Attachment B) may both be included in the Contract or, if KPI measurement can begin with only variation in Performance Payments required, clause 4 can be used to operate without Annex B to Attachment P. If there is no PIP, then this clause (and Annex B to Attachment P) should be replaced with a single 'Not used'.

The PIP may involve a single stage or a number of stages. A single-stage PIP could begin with no Performance Payment (ie, paying the Core Services Fee with no At-Risk Amount), or a limited Performance Payment, followed by the full operation of performance management framework. In a multi-stage PIP the KPIs may change and the amount (percentage) of the At-Risk Amount may increase with each stage, as illustrated in Figure 3.

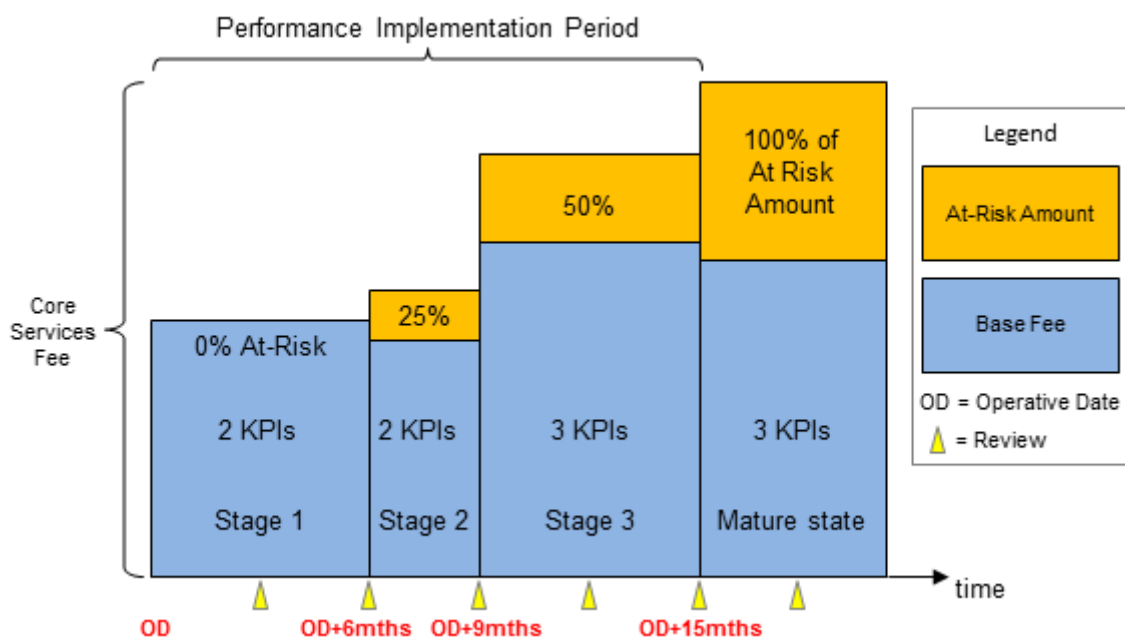


Figure 3: Multi-Stage Performance Implementation Period

Note that in Figure 3 the Core Services Fee is increasing with each stage as a function of a Ramp Up of the Services. Ramp Up stages would be defined by Milestones and events in Annex H to Attachment B, and in the tables in Annex B to Attachment B for the Ramp Up of the Core Services Fee. As such, Ramp Up stages and PIP stages can be aligned but this is not essential as the At-Risk Amount is based on a percentage of the Core Services Fee, which can increase independently of the PIP.

Clauses:

Clause 4.1.1 defines the duration of the PIP beginning from the start of the first Review Period. The start of the first Review Period is defined in Attachment P, so drafters need only enter the duration in this clause. For convenience, the end date for the PIP should coincide with the end of a Review Period, as shown in Figure 3.

Clause 4.1.2 is an optional clause, to be included for a multi-stage PIP like the example illustrated in Figure 3. The duration of each stage is to be entered into the sub-clauses, with additional sub-clauses added for additional stages, if required. Stages of the PIP can have different durations. For convenience, it is easier if they last for one or more Review Periods rather than part of a Review Period, which means that a PIP stage may not start until the Review Period beginning after a related Milestone.

Clause 4.1.3 clarifies that, at the end of the PIP, the PIP modifications no longer apply and the full performance management framework will be implemented.

Based on the need for one or more stages, option A or B (clause 4.1.4 and 4.1.5 or clause 4.1.6 and 4.1.7) are to be selected and the amendments to the full Performance Payment regime (under clause 3) must then be described. For a single stage PIP, Table C-2 will describe how Table C-1 (under clause 2.1) is modified. For a multi-stage PIP, a table must be copied and added for each stage to describe how Table C-1 is modified in each stage.

Possible modifications for the PIP include a reduced At-Risk Amount, suspending Performance Payments for KPIs that are not measuring mature Services, and changing the weighting of individual KPIs. Reducing the At-Risk Amount reduces the risk to the Contractor during an initial period when setting-up and establishing Services; however, it still motivates performance. A reduced At-Risk Amount, rather than no At-Risk Amount, is desirable when the PIP runs for more than 12 months. Suspending a KPI (eg, because the related Service hasn't begun) is achieved by setting its weighting to zero (0%), but to account for all of the At-Risk Amount, weightings for remaining KPIs must then be increased such that the total weightings for the 'active' KPIs always equals 100%. In some cases, all KPIs may be measured but the weightings for some will be reduced (for Services provided at a reduced level) while other Services will be at close to mature levels (but in every stage of the PIP the total of the weightings must sum to 100%).

The draft clauses are intended to assist in describing the modifications for the PIP but they cannot account for all possibilities. Drafters will need to develop these clauses to suit their Contract's specific requirements.

Where there are multiple stages to the PIP and the changes can be presented graphically (eg, as per Figure 3 or with more detail), figures / diagrams may be added under this clause to aid in understanding the PIP process.

Drafter's Action: Drafters are to select and amend clause 4.1.2 for a multi-stage PIP, if required, and select from Options A and B, based on the need for a single stage or multi-stage PIP. The suggested clauses and tables are a starting point for developing the adjustments to the Performance Payment regime for the PIP.

The modifications to be made during the PIP should be reviewed for clarity and consistency, including consistency with Annex B to Attachment P.

Related Clauses: Clause 2.1.2 and Table C-1 in this Annex.

Annex B to Attachment P, Performance Implementation Period

Further Reading: Nil

ADJUSTMENTS TO THE PERFORMANCE MANAGEMENT FRAMEWORK

Overview

'Performance management framework' is a generic term for the performance measurement and assessment processes and the related rewards and remedies in the Contract. Changes to the performance management framework may be required from time to time, for a number of reasons. These include:

- a. changes associated with the initial Ramp Up of Services,
- b. changes driven by variation in the end-user demand for Services,
- c. changes needed to fine tune the performance management framework, and
- d. changes to correct a deficiency that prevents the performance management framework from functioning effectively.

Changes during Ramp Up should be addressed through the PIP by clauses within Annex B to Attachment P, Annex C to Attachment B and related provisions (and plans) for the Ramp Up of Services (SOW clause 2.7).

Major changes in end-user demand (eg, change to basing locations or significant changes in Rate Of Effort) and major deficiencies in the performance management framework may require far reaching CCPs. Smaller adjustments, within prescribed limits, may be achieved through COC clause 7.15, Performance Management Framework Adjustments, and related changes to Attachments B and P.

COC clause 7.15, Performance Management Framework Adjustments

| | |
|------------------|--|
| <u>Status:</u> | Core |
| <u>Purpose:</u> | To allow for adjustments to the performance management framework by changes in performance requirements, measurement, reporting and KPI weightings. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Clause 7.15.1 identifies the need for a meeting to review the performance management framework, and the potential objectives for undertaking such as review. This review is undertaken as part of a Contract Performance Review, or more frequently if required by the Commonwealth – noting that any significant change requires time to take effect and unless updating a time-variant KPI (eg, that varies month-to-month) updating performance requirements any more than once per year could be disruptive to efficient work practices. The list of reasons and objectives for changing the performance management framework may be tailored by the drafter to suit the specific requirements of the draft Contract.</p> <p>Clause 7.15.2 commences the process for preparing changes to the performance management framework. To begin, the Commonwealth proposes an adjustment to the measurement, reporting and/or to the KPI requirements, including how the APS is calculated. For changes to KPIs and At-Risk Amounts allocated to KPIs, constraints are specified as criteria in Table 1 (refer to 'drafter's action' below for developing this table).</p> <p>Note that the allocation of the At-Risk Amount to KPIs (ie, the weighting) may be modified, but the At-Risk Amount itself cannot be modified by this clause.</p> <p>The Contactor assesses the proposed adjustment(s) and, in accordance with clause 7.15.3, should notify the Commonwealth of their findings and their agreement or otherwise (noting that no response within a given period is also considered agreement).</p> <p>In accordance with clause 7.15.4, if the Contractor does not agree with the proposed changes, the parties will meet and seek agreement, considering the reason(s) for the Contractor disagreeing with the proposed change. If the parties cannot agree then the issue is raised with the senior management of both parties. Failing agreement at that level, the Commonwealth can make a determination on the adjustments, which must be within the limits defined in Table 1.</p> |

Once the adjustments are agreed, a CCP is raised accordance with clause 7.15.5 by either the Contractor or Commonwealth, to implement the adjustments by amending the applicable Attachments.

Clause 7.15.6 is included to provide clarity in regards to the parties' rights and the limitations applicable to adjustments.

Drafter's Action: Drafters may amend clause 7.15.1, to update the reasons for making adjustments. Clause 7.15.2(iii) should be amended if the Contract does not include a PIP. The primary focus for tailoring / development is on the criteria in Table 1, under clause 7.15.2.

Analysis is required to develop Table 1, which should be done in conjunction with the initial development of the KPI specifications in Attachment P. The left column describes the type of proposed adjustment while the right column specifies the corresponding individual and cumulative limits.

There is no strict order for listing adjustments and criteria. However, the template presents a recommended sequence of:

- a. limits that apply to all KPIs, as a set;
- b. adjustments to the weightings for KPIs (ie, changes to Attachment B); and
- c. adjustments to individual KPIs themselves (ie, changes to Attachment P).

The first two rows in Table 1 confirm rules that apply to all performance management frameworks, being that:

- a. no KPI can have a negative weighting (but a KPI can be nullified if its weighting is set to 0%); and
- b. the sum of the weightings for all KPIs must add up to 100% (to pay all of the At-Risk Amount, even when a reduced amount is 'at-risk' during a PIP).

If the draft Contract is more restrictive on the first criteria (eg, each weighting must not be less than 10%) then the first criterion may be amended. If there are other global rules that apply to the performance management framework for the draft Contract, then these should be added.

In subsequent rows in Table 1, for adjustments to weightings and to KPI requirements, it is recommended to identify the limits for each individual adjustment followed by limits on cumulative adjustments that could occur over the course of the Contract – example criteria in the template illustrate this.

For KPI weightings, only limits on individual increases and upper limits are required to be entered in the table. The weightings for other KPIs must be reduced in accordance with the overall rules, so that the sum of all weightings equals 100% (ie, limits on incremental reductions in weightings are generally not required).

As part of defining KPIs in Attachment P, drafters need to consider the requirements of the MSA Product Schedule, OCD, or other document defining the Capability Manager's needs for the Materiel System and how this has been translated into KPIs (refer to guidance for clause 2.1 of Attachment P). Secondly, drafters must consider the viable range of performance requirements for each KPI; performance will ultimately be limited by the number and characteristics of Mission Systems, the Support Resources acquired, and the constraints placed on Support System processes (often imposed by the Commonwealth). Criteria for upper limits must be realistic as the cost of achieving high levels of performance often increase dramatically as the natural limits of the Materiel System's design are approached.

For adjustments to KPI requirements, meaning the Required Performance Level and the boundaries between Performance Bands B and C, and C and D, it is usual to fully address each KPI in Table 1 before moving to the next one. As all adjustments must be in accordance with Table 1, a KPI that is not listed cannot be adjusted by this clause. Adjustments and limits that are 'more demanding' should be listed, which could be an increase or a decrease in the Required Performance Level and Performance Band boundaries, depending on the KPI. For example, for a 'more is better' KPI, such as system availability, upper limits are more demanding but for a

'less is better' KPI, such as delay time, lower time limits are more demanding. There is generally no need to specify 'less demanding' criteria.

Adjustments to the Required Performance Level and Performance Bands change the shape of a KPI's performance curve (in Attachment P). For example, raising the Required Performance Level while reducing the Performance Band B – C boundary will flatten the performance curve in Performance Band B. However, the boundaries should never be adjusted such that the gradient of the performance curve in Performance Band B is steeper than Performance Band C. This is an issue when making adjustments during the Contract; however, for some KPIs it will be possible to prevent this by defining appropriate rules in Table 1.

Although impossible to predict all future requirements, it is preferable to define limits on adjustments as relatively small increments. This reduces Contractor risk while allowing the performance management framework to be optimised.

An efficient way to use this clause (including Table 1) and Attachment P is to define KPIs exactly for the actual level of performance required by the Capability Manager with no built-in buffer for 'just-in-case'. If the level of performance required is subsequently found to be higher then, within the limits defined in Table 1, the requirements can be increased. Alternatively, if requirements are found to exceed what is actually necessary, the KPI's performance requirements may be reduced, particularly when this allows for the implementation of Efficiencies¹⁰.

Related Clauses: Clause 2 of Annex C to Attachment B, for the allocation of At-Risk Amounts.

Clause 4 of Annex C to Attachment B, for PIP changes.

Annexes A and B to Attachment P, for defining KPIs, including how they are measured and changes during the PIP.

Further Reading: Nil

¹⁰ This follows the principle identified in the Strategic Reform Program that many of the efficiency savings for Defence systems will be found through 'demand management', and that Required Performance Levels usually link to demand.

REMEDIATION PLANS

Remediation Plan

A Remediation Plan, as required by clause 6.12 of the COC, is a plan developed to describe how a significant shortfall will be remedied by the Contractor. This includes shortfalls related to compliance with Contract provisions generally (ie, default); it is not limited to KPIs or the Services. The primary objective of a Remediation Plan is to rectify the applicable shortfall by planning and executing, in a timely manner, a solution that resolves or otherwise overcomes the shortfall. The Remediation Plan is classed as a Contract remedy but it only has a minor (administrative and management) impact. If a Remediation Plan is required but not delivered, is inadequate, or is not followed, then further remedies can be applied according to the nature of the shortfall.

Shortfalls that trigger a Remediation Plan can be either confirmed or anticipated outcomes. For example, poor performance against KPIs can be confirmed by the Performance Measurement Report or may be anticipated from the performance measurement data that is delivered more frequently in the Support Services Verification Matrix (ie, before the Performance Measurement Report is delivered). Shortfalls may be observed by the Commonwealth (eg, a clear failure to provide Services), uncovered by Commonwealth audit, or result from an action taken by a regulatory authority (eg, a notice to withdraw an Authorisation). Some events will automatically trigger the need for a Remediation Plan, and these are identified in the Contract, while in other cases the Commonwealth can request a Remediation Plan. Importantly, Remediation Plans are not intended to be used for minor issues that can be addressed by 'business as usual' management processes.

Events the require Remediation Plans

While not being exhaustive, the following are example events and circumstances that can give rise to the need for a Remediation Plan:

- a. If the Contractor's performance is within Performance Bands C or D for a KPI, a Remediation Plan is automatically required to plan a recovery of the affected Services and achieve the Required Performance Level(s) (refer SOW clause 10.3.5).
- b. Any Suspended Payments, as defined in COC clause 7.9, where the Commonwealth may request a Remediation Plan in the first instance (noting also that failure to deliver, obtain Approval for, or comply with any Approved Remediation Plan is also a Suspending Payment event).
- c. If the Contractor fails to maintain the Authorisations necessary to perform the Contract and/or receives a notification from a regulator that it will lose an Authorisation that is necessary for the performance of the Contract (refer COC clause 3.4).
- d. If the Contractor fails to achieve a minimum performance level for an Other Performance Measure (OPM) that has been defined in a way to measure compliance with the Contract or for the provision of Services that are not linked to KPIs and Performance Payments (refer COC clause 6.12).

Implementation

Remediation Plans are implemented through clauses in the SOW and the COC, primarily COC clause 6.12 and SOW clauses 3.4.5 and 10.3.5. The implementation, beginning with various events or situations that trigger the requirement for a Remediation Plan, is summarised in Figure 4.

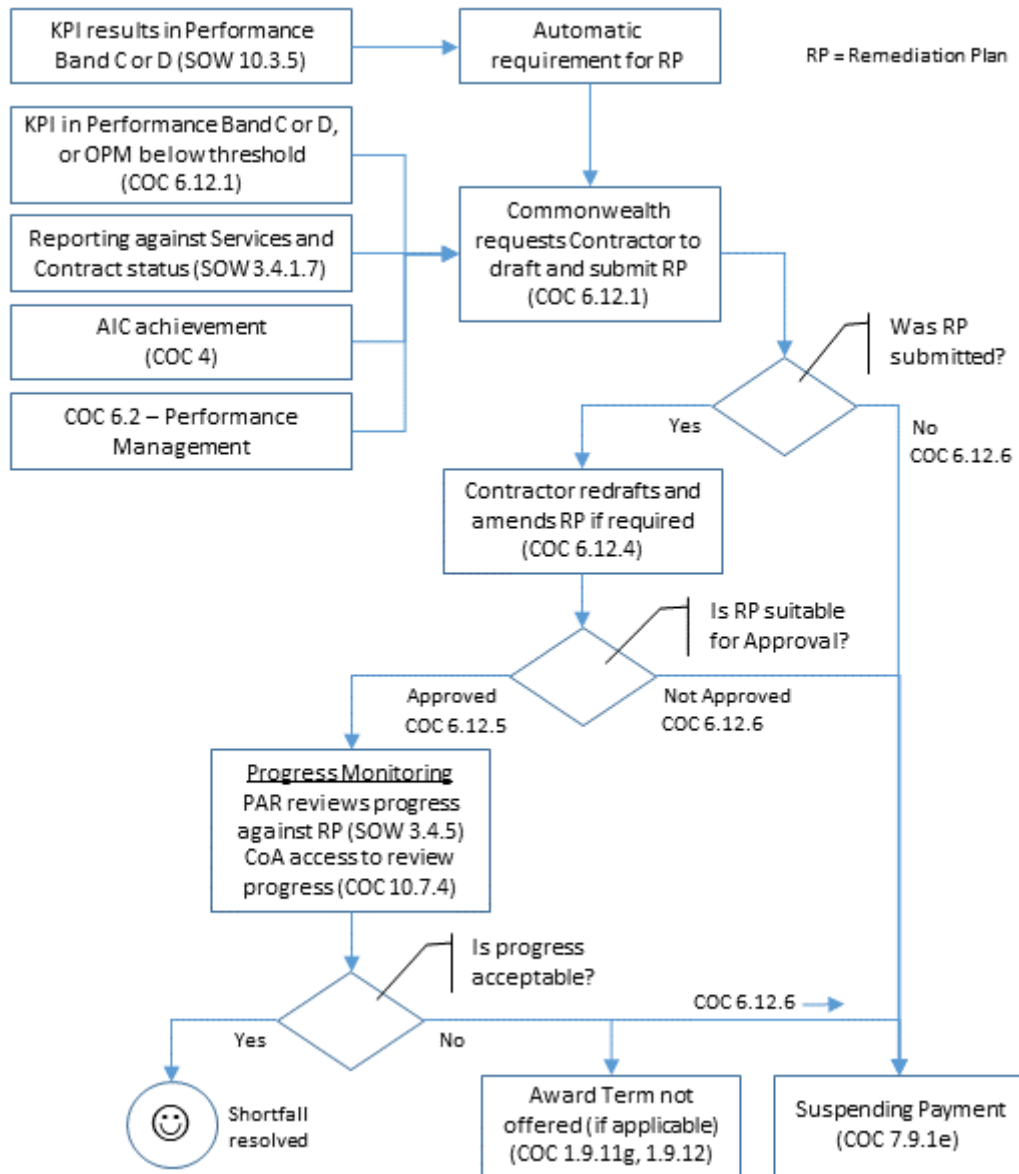


Figure 4: Remediation Plan and Process

CONTINUOUS IMPROVEMENT AND EFFICIENCIES

Overview

The Continuous Improvements and Efficiencies (CIE) program implements the 'productivity' component of an *ASDEFCON (Support)* PPBC. This represents the second of the key objectives for PPBCs: to reduce the TCO of the system (without detriment to the first objective, which is to maintain / enhance the system's capability).

Within the *ASDEFCON (Support)* template, the CIE program has the following main components:

- a. COC clause 3.19,
- b. SOW clause 13, and
- c. supporting data items.

Progress of the CIE program is also reviewed at Performance Assessment Reviews (SOW clause 3.4.5) and considered in the determination of Award Terms (COC clause 1.9).

Important Note: The Contract should not specify any set or minimum amount or percentage to be saved by the CIE program. Audits of government contracts have found that this practice increased the overall price of the contracts involved.

COC clause 3.19: Clause 3.19 obliges the Contractor to implement the requirements of the SOW and to cooperate with the Commonwealth in seeking Efficiencies.

SOW clause 13: The SOW captures the work elements of the CIE program; including management, cost modelling, analysis of Efficiencies, reporting, use of Independent Verification and Validation (IV&V) services to assess Efficiencies and their impact on TCO, CCP preparation and implementation. Refer to the *ASDEFCON (Support) SOW Tailoring Guide* for a detailed explanation of SOW clause 13 and the work requirements to implement the CIE Program.

Significant aspects of the CIE program in the SOW that will or may affect the commercial provisions of the Contract are:

- a. any temporary effect on Contractor performance, affecting KPIs and/or other performance, during implementation and resulting in a need for Performance Relief (which may be determined and discussed prior to the event);
- b. any longer term effects on the performance of Services measured using KPIs, which may warrant adjustments to the performance management framework under COC clause 7.15; and
- c. changes to Attachment B, price and payments, to incorporate the sharing of financial savings that result from the implementation of Efficiencies.

In accordance with the SOW, proposed Efficiencies are analysed by the Contractor and the EAIR is delivered to the Commonwealth in order to report its findings. Along with the anticipated savings, the EAIR should identify any expected short and/or long-term impacts on performance caused by implementing the Efficiency.

Approved Efficiencies are implemented in accordance with the Approved EIP. Annexes to the EIP detail the separate implementation plan for each Approved Efficiency. The Approved EIP records the schedule for implementation, and the amount and commencement date of the savings to be shared.

Attachment B:

Approved Efficiencies that change the payments to be made in accordance with Attachment B are implemented via CCP.

Many Efficiencies that amend the payments made under the Contract will not provide immediate savings to the Commonwealth as time must be allowed for the Contractor to recoup any implementation costs (eg, for new equipment or for training staff in new processes). Accordingly, the CCP for the Efficiency will have an effective date from when changes to the existing payments will commence. Where the prices for

Services are listed within annual tables in Attachment B, and the change in price commences with one of those years, the change could be included in the tables immediately. Where the change occurs during the current year, the CCP can be approved but the change to Attachment B delayed until the changes takes effect – at which time the existing and future year tables can be updated.

Importantly, not all Efficiencies will result in reduced payment amounts under the Contract. Some Efficiencies may even increase the payments if an Efficiency transfers work to the Contractor (increases scope) because it was less expensive than the Commonwealth continuing to perform the work, or the work being performed under another contract. If transferring work from another contract, the with-effect date is likely to depend on either the other contract ending or an event that results in a reduction in scope of that other contract.

AWARD TERMS

Overview

Award Term. An Award Term is an extension to the Contract Term (duration) that is offered to the Contractor as a reward. The aim of Award Terms in *ASDEFCON (Support)* is to provide the Contractor with an incentive to assist Defence to reduce the TCO for the Materiel System. The emphasis on TCO means that cost-shifting from the Contract to other parts of the Capability, to either the ADF or another contractor, is not a saving. Award Terms are the main reward for shared savings under the Continuous Improvement and Efficiencies (CIE) Program or, in other words, the 'Productivity' component of PPBCs. The other CIE Program rewards are the Contractor's share of the savings from Efficiencies.

Award Terms are only effective in Contracts that can be re-competed. There must be a realistic opportunity for the CASG to find another provider should the Contractor not achieve the criteria necessary to be offered an Award Term. Otherwise, a replacement contract must be awarded to the current contractor regardless of their performance. In less competitive situations (eg, directly sourced contracts), a fixed-term (Option B under COC clause 1.9) or Renewal Terms (Option C under COC clause 1.9) may be used.

Reward Criteria. While principally being a reward for the shared savings from Efficiencies, being able to offer an Award Term is subject to prerequisites and other criteria. Prerequisites, based on external factors, are that the major Products that form the basis of the Capability will not be withdrawn from service beforehand, and that there are no over-riding government directives, such as matters of 'strategic or national interest', that preclude an Award Term from being offered.

Other criteria for an Award Term to be offered are that the Contractor has provided good long-term performance, contributed to Contract objectives, and that any effort to remediate a Contract breach or other shortfall has been satisfactory – the CASG generally doesn't want to extend a contract otherwise.

Subject to the prerequisites and other criteria being satisfactorily met, an Award Term is to be 'offered' based on the Contractor's achievement of '**satisfactory**' ratings for the CIE program. The ratings are made by the Commonwealth for each Review Period within the Award Assessment Period. Note that this does not require new savings to be made in every Review Period, but it requires that Efficiencies are actively sought and that Approved Efficiencies are implemented.

Once an Award Term is 'offered', there is a final step before it can be 'granted', which is to successfully negotiate a CCP. This includes a 'value for money' assessment by the Commonwealth, for which the savings from Efficiencies are also significant. This process may also consider the outcomes of a Periodic Cost Review and any adjustment to the Contract's scope.

Note that, subject to the defined prerequisites, an 'offer' of an Award Term is a reward earned by the Contractor in accordance with the Contract, not Commonwealth discretion. However, to 'grant' an Award Term the Commonwealth needs to determine, consistent with Commonwealth Procurement Rules, if the Contract extension will continue to represent value-for-money.

The Award Term process is to be as **objective** as possible, in order to provide the Contractor with the confidence to forward plan and to identify long-term productivity savings with the expectation that an Award Term will be offered. This aims to be an on-going determination process with '**no surprises**' as to the outcome. It would be unfair for a contractor to be advised that they are performing well and achieving **satisfactory** ratings, only to lose an Award Term based on a subjective opinion by the CASG.

Award Term Models

ASDEFCON (Support) includes two Award Term models, a 'standard' Award Term model and a 'rolling-wave' Award Term model. Both models have advantages and disadvantages and the approach to be taken should be defined in the SPS or other contracting strategy. To compare the two models, an example contract timeline is shown in Figure 5, with the following parameters:

- a. Initial Term: five years (from OD)
- b. ED to OD: three months
- c. PIP: six months
- d. Off ramp period: two years
- e. Review Periods: three months

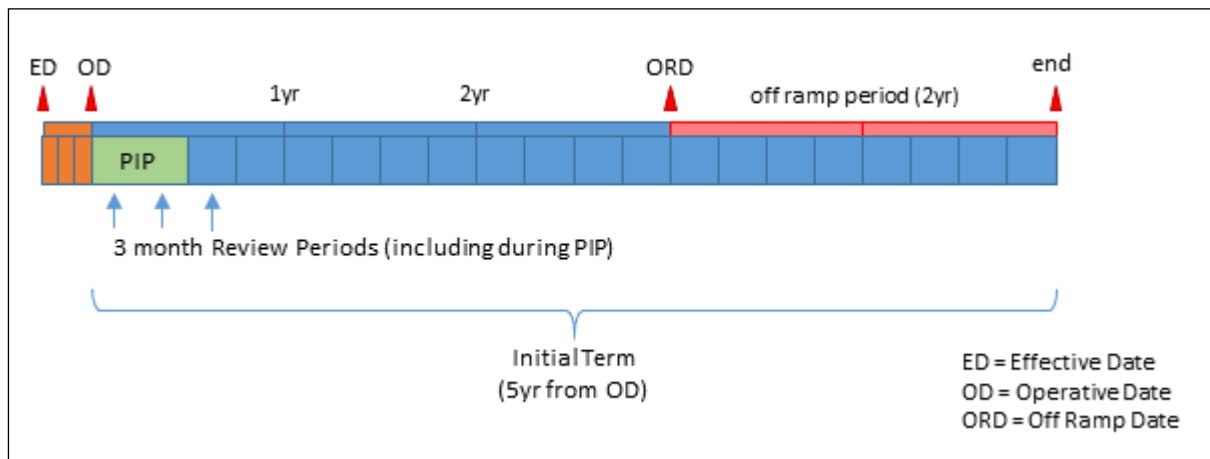


Figure 5: Timeline - Initial Term

In all contracts the 'off ramp period' (from ORD to the end of the Contract) is equal to or slightly greater than the time it is expected to take to re-tender a contract and establish a new contractor. This is typically two years or more, depending on the complexity of the Services and the availability of CASG resources to undertake tender preparation, evaluation and negotiation processes. Although not much will change for the Contractor in the early part of this period, the CASG starts the time-critical process to replace the contract and any delay could jeopardise the ability to implement a new contract in time to take over the Services (ie, a new contract must at achieve OD before the end of the current Contract).

In both Award Term models the Contractor's performance is assessed for each Review Period within an Award Assessment Period, essentially the determination of Award Terms is an on-going process. In both models, a decision must be made before the ORD. However, in simple terms, the 'standard' Award Term model works back from the ORD to identify the decision point (the Award Term Determination Date (ATDD)), whereas the 'rolling-wave' Award Term model works from the start of the Contract Term, provided that all ATDDs occur before the ORD.

'Standard' model

In the 'standard' Award Term model, an ATDD occurs when the time remaining in the Contract Term equals (with a small allowance for contingency) the time needed to prepare and process a CCP, to incorporate a new Award Term into the Contract, before the ORD. In the template, the CCP process is given 'at least' five months – it may take longer if the CCP requires significant preparation or negotiation. Where Review Periods are three monthly, five months also allows a few weeks for the performance and CIE Program results from the preceding Review Period to be received and assessed. If additional time is required this must be determined by the Commonwealth Representative on a case-by-case basis for each ATDD.

At each ATDD the Commonwealth must assess the Contractor's performance for the Award Assessment Period, and subsequently notify the Contractor if an Award Term will or will not be offered. If an Award Term is not offered, or it is offered but a CCP cannot be negotiated for the Award Term to be granted before the ORD¹¹, then the

¹¹ A short-term discretionary extension may be given in order to delay the ORD and confirm a recovery of performance – see 'other features' below.

Phase Out process commences and the Contract will expire at the end of the current Term.

An ATDD and Award Assessment Period for the standard Award Term model are shown in Figure 6:

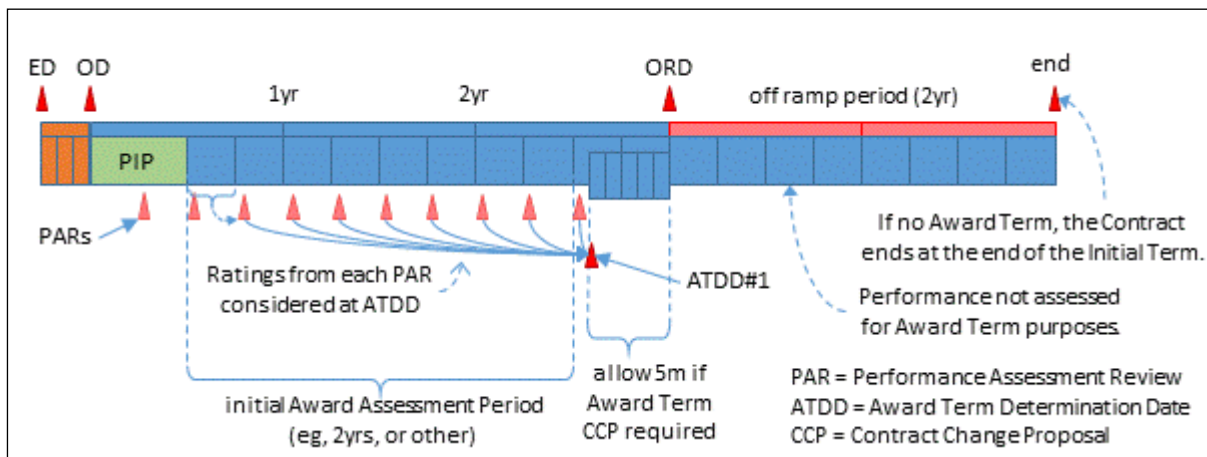


Figure 6: Award Term Determination (standard model)

If an Award Term is granted (ie, the CCP was agreed and incorporated) then the Contract is extended and the ORD is deferred, as shown in Figure 7. In this example, a two-year Award Term will cause a rescheduling of the ORD to the end of year five and the end of the Contract Term to the end of year seven. The second ATDD is then determined with respect to the rescheduled ORD (ie, at least five months before it).

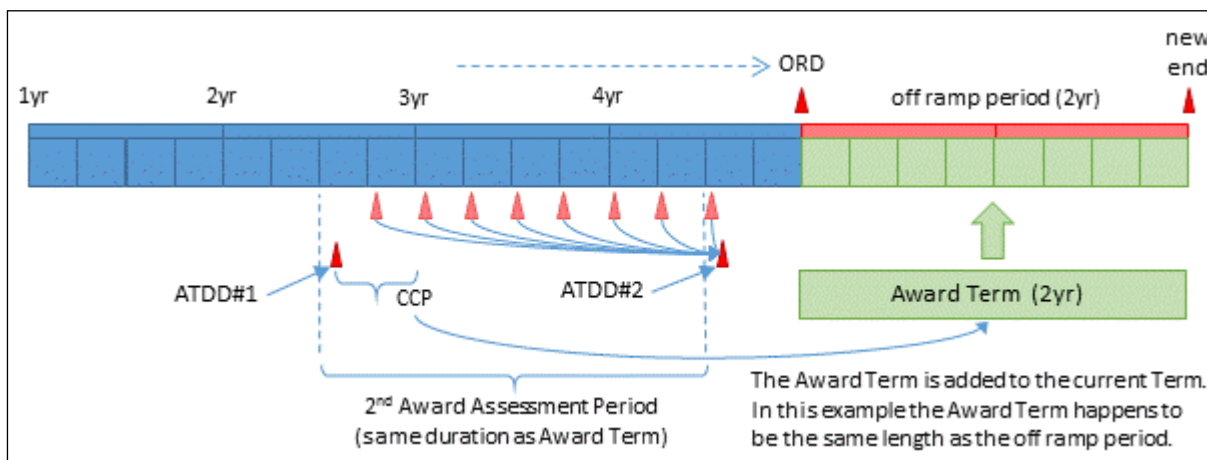


Figure 7: Award Term granted (standard model)

Award Terms can continue to be added to the end of the Contract Term so long as the Contractor performs and makes sufficient progress in the CIE Program, or until the Maximum Term is reached, a strategic or national interest prevents it, or because the major Products (which form the basis of the Capability and, therefore, the Contract) are withdrawn from service.

The standard Award Term model allows variable-length Award Terms, typically between one and three years. A fixed-length Award Term may be included by modifying the clause for the maximum extension (clause 1.9.16). The maximum duration of the Award Terms may be amended by the drafter, but longer than three years could reduce the on-going emphasis for seeking Efficiencies. The duration is to be determined by the Commonwealth and included in the Extension Notice, whenever an Award Term is offered.

There are several reasons for variable-length Award Terms. Firstly, in many fleets the deeper maintenance cycles rarely ends at the end of a Contract year, and an Award Term can be set to suit the planned maintenance cycle (eg, the full cycle docking for a ship). Shorter Award Terms can emphasise the on-going pursuit of Efficiencies but will incur a more frequent administrative burden to process Award Term CCPs (which could outweigh the savings). Longer Award Terms may be suitable if the forthcoming period will include a mid-life upgrade (so that the Contract doesn't end half way through the program). A longer Award Term may also be needed to recoup the investment costs for an Efficiency that has significant implementation requirements.

The template does not specify how to determine the duration of a standard Award Term, other than the one to three year limits and 'having regard to the Contractor's performance'. Accordingly, this may be discretionary or based on additional criteria added to the Contract to incentivise particular outcomes.

'Rolling Wave' model

In the 'rolling-wave' Award Term model, the ATDD occurs after each one-year Award Assessment Period. The first Award Assessment Period can commence at OD or at another specified time near the start of the Contract Term (eg, following the completion of a stage of the PIP). In Figure 8, below, the Award Assessment Period starts after a short PIP:

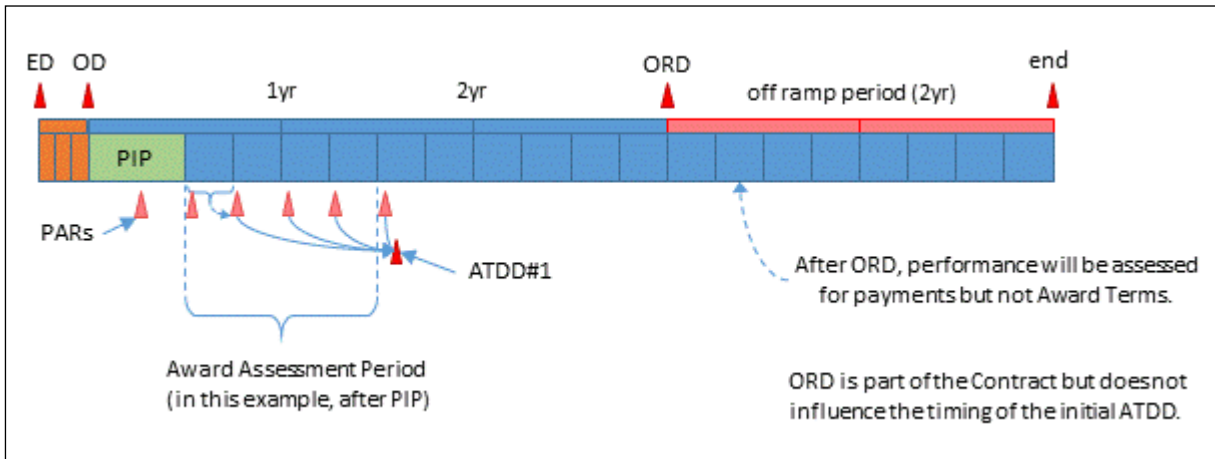


Figure 8: Award Term Determination (rolling-wave)

In the rolling-wave Award Term model, each Award Term has a length of one year only, and so the Award Assessment Period is one year.

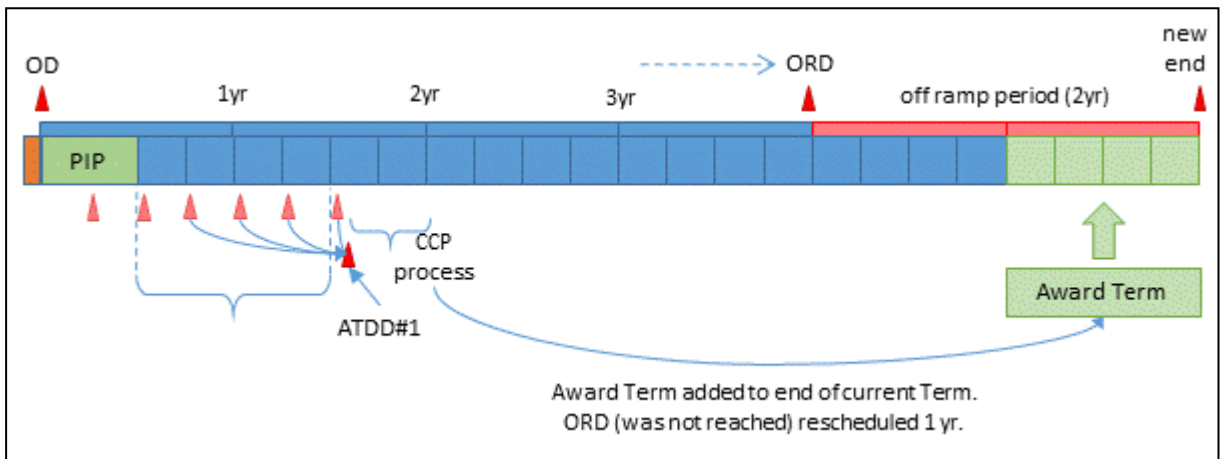


Figure 9: Award Term granted (rolling wave)

Figure 9 shows the Contract being extended following a successful Award Term determination and CCP, and the ORD being deferred by a year (from end of year 3 to end of year 4). The next Award Assessment Period starts immediately after the first one (ie, while the CCP is being processed).

If successful at the second ATDD and another CCP is agreed, the next Award Term is granted and the Contract Term is extended by another year, and so on. If a rolling-wave Award Term is not offered, or offered but not granted because a CCP could not be agreed within the specified timeframe, then the Contractor is notified and the on-going assessment of the Contractor's performance and CIE program continues until the next ATDD, as shown in Figure 10.

In Figure 10, the second ATDD is about five months before the ORD. In this instance the rolling-wave Award Term model now works like the standard model, and any CCP for an Award Term must be complete before the ORD or the off ramp period and Phase Out of the Contract will commence, and no further extensions can be granted.

Note that the time between the start of the first Award Assessment Period and the initial ORD will dictate how many ATDD results can be unsuccessful before the Phase Out process takes over (eg, in the above example, if two Award Terms are not granted then the ORD will occur and Phase Out of the Contract will begin).

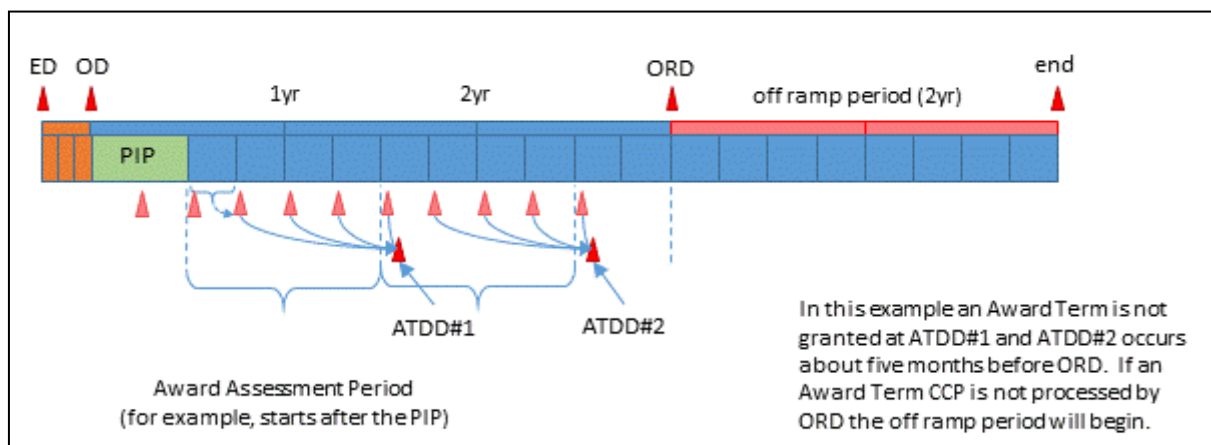


Figure 10: Award Term not granted (rolling wave)

Comparison

Both Award Term models assess performance and the results of the CIE program from the first Review Period of the Award Assessment Period¹². The rolling-wave model determines if an Award Term will be granted early in the Contract Term, which may focus attention on finding early Efficiencies. The ATDD for the standard model generally occurs later, allowing any initial unrepresentative performance to be more easily excluded from the performance evaluation.

Although the ATDD occurs earlier for the rolling-wave model, if a number of Award Terms are not granted then the model becomes similar to a fixed one-year version of the standard Award Term model (ie, with the pending ORD and CCP process dictating the latest possible time for the ATDD).

For both Award Term models, the duration of the PIP (if applicable), the length of the initial Contract Term, and the determination of the ORD (set by the length of time needed to re-compete the Services) are critical to the effective use of Award Terms. For contracts using Award Terms the various options should be considered and the key parameters should be identified in an SPS, or other strategy.

¹² Note that performance assessments occur during any Review Periods occurring before the start of the Award Assessment Period (eg, in early stages of a PIP), but these are not considered in the Award Term process.

Other Features

To make Award Terms function effectively a couple of other features are included within *ASDEFCON (Support)* COC clause 1.9. Firstly, if an Award Term will extend the Term to within the last few years before Planned Withdrawal Date (PWD) of the Mission System(s), then the last Award Term may be extended until the actual withdrawal date.

The second feature is an option, for the standard Award Term model, that allows Commonwealth discretion to extend the Contract for a short period (eg, to delay ORD by six months) if an Award Term is not able to be offered. This is intended to be used if the Contractor is recovering from a short period of poor performance, or to complete a Remediation Plan, and more time is needed before an Award Term can be offered. This allows time to confirm that the issue being remediated was only temporary, and that the recovery can be sustained.

COC CLAUSE 1.9, CONTRACT TERM

| | |
|------------------|--|
| <u>Status:</u> | Core Options (ie, a Core requirement containing only Optional clauses, one of which must be selected for inclusion in the draft Contract) |
| <u>Purpose:</u> | To define the Contract Term including, when applicable, the process to enable the Contract Term to be extended. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Clause 1.9 is a core clause and it contains three sets of optional clauses (ie, 'core options') covering:</p> <ol style="list-style-type: none"> a. Option A - Contract extension by Award Terms that are offered as a reward; b. Option B - Fixed Term Contracts; and c. Option C - Contract extension by Renewal Terms. |

Award Terms are the preferred option for CASG PPBCs as they simultaneously offer the Contractor with a reward for long-term performance and savings, which together promote on-going value for money.

A Fixed Term is generally intended for short-term contracts, providing a temporary solution until a longer-term contract is established.

Renewal Terms are the least preferred and are generally the result of direct-sourcing. Renewal Terms provide an opportunity to review the scope of the contract for the extension, and separate some Services if they can be competed.

One of these core options must be included in the Contract while the other two will be deleted. The type of Contract Term, as described by Options A to C, should have been determined and documented in the SPS, or equivalent, before tailoring this clause.

Each option within clause 1.9 is explained below.

Option A – Contract Extensions by Award Term

To use Award Terms as the mechanism for extending the Term and to act as a Contractor incentive / reward, drafters should select Option A. If this option is selected, Options B and C must be deleted.

Option A includes a number of standard clauses and some optional clauses (or 'sub-options') so that the clause, as a whole, can be consistently tailored for the model of Award Term chosen – either a 'standard model' or a 'rolling-wave model'. For further explanation of Award Term models, refer to the preceding section on Award Terms.

Option A defines the steps to be taken within the Award Term determination and implementation process – understanding this process helps to understand the application of this clause (a certain level of complexity is unavoidable). The following flowchart (Figure 11) summarises these steps for both standard and rolling-wave Award Term models.

The first clause of Option A, clause 1.9.1, defines Term for the Contract. This requires the drafter to insert the duration of the Initial Term into the Details Schedule (and to remove the options for Fixed Terms and Renewal Terms from that table). Starting from OD, the Term is defined for the duration for the provision of Services (regardless of the duration of Phase In) - when a support contract is linked to an acquisition contract, and the project schedule is delayed, this can synchronise the provision of Services from the delivery of the first system (by being linked to OD). The duration of the Initial Term should have been considered when developing the SPS, or equivalent, taking into account any Ramp Up period and the Phase Out at the end of the Contract. The tailoring for this clause is achieved through the Details Schedule.

Overview of Award Term operation (COC clause 1.9)

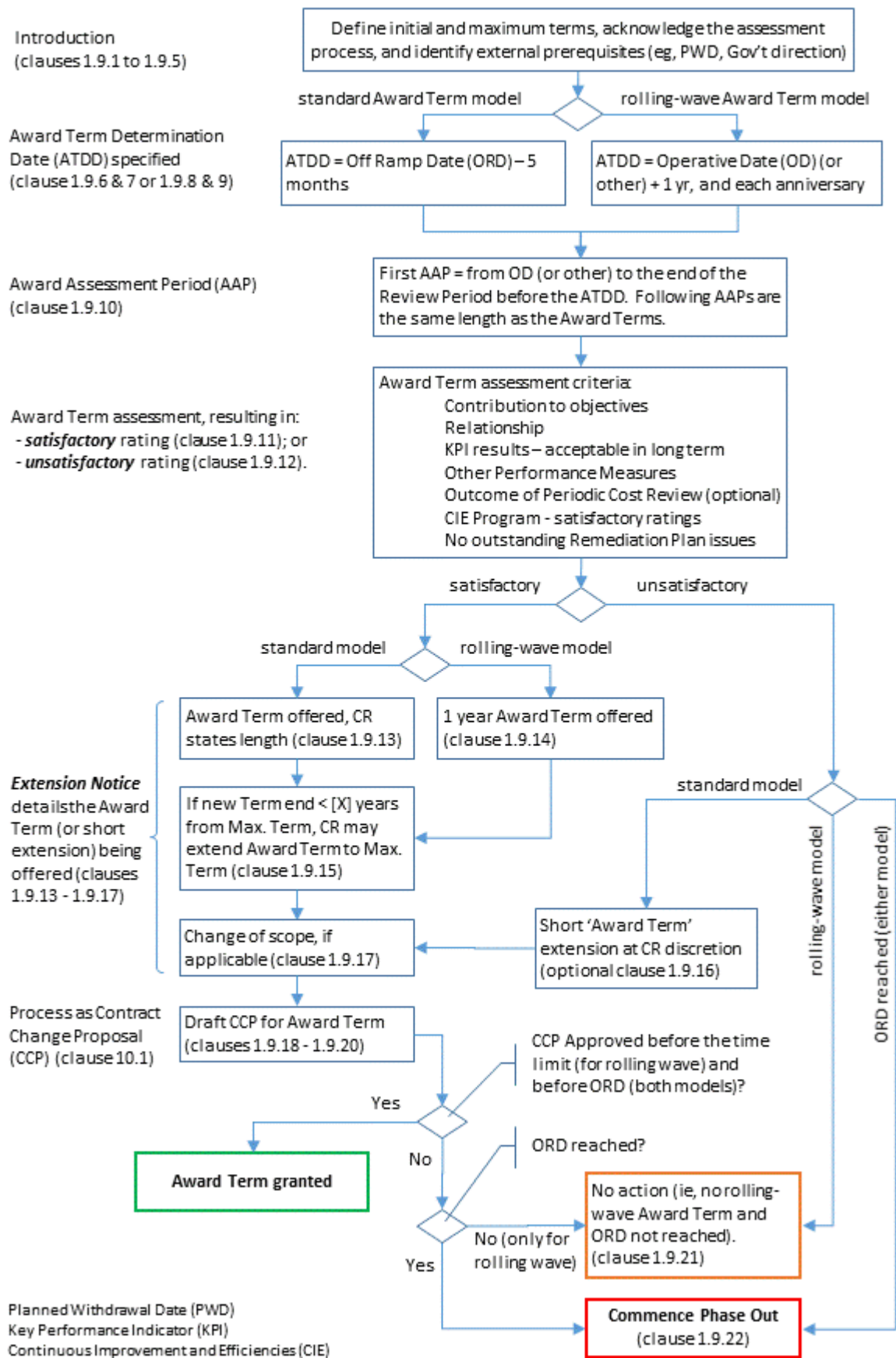


Figure 11: Award Term Clause Operation

Clause 1.9.2 requires the drafter to define the Maximum Term for the Contract, starting from OD, should one of or more Award Terms be granted (eg, a five-year initial term plus up to five one-year Award Terms means a Maximum Term of 10 years after the OD). Like the Initial Term, this should have been considered in the SPS or equivalent. If the Contract occurs late in the life-cycle of the Materiel System, this definition of Maximum Term may be reworded to provide support until the end (eg, 'until the major Products Being Supported are withdrawn from service'). The Maximum Term is defined in the Details Schedule with no actual change to this clause being required.

Clause 1.9.3 summarises the two-step process necessary to implement an Award Term. The process:

- a. considers the Contractor's performance so that an Award Term can be **'offered'**; and
- b. requires preparation of a CCP that, if agreed, enables the Award Term to be **'granted'**.

This 'acknowledgement' clause aids understanding but does not affect the operation of clause 1.9. For a standard Award Term, reference to the 'maximum extension' clause (clause 1.9.16 in the template) should be included in clause 1.9.3, or removed for a 'rolling-wave' Award Term, otherwise this clause does not require tailoring and may be retained in the draft Contract without change.

Clause 1.9.4 identifies the external factors that are prerequisite conditions; if present these conditions mean that an Award Term cannot be offered. These are reasons of strategic or national interest, usually in the form of government directions to Defence, or because the Materiel System is being withdrawn from service. In these cases, the Phase Out process will commence and the Contractor will be notified accordingly (under COC clause 14). Clause 1.9.5 states that in this situation the Contractor will have no claim against the Commonwealth for an Award Term not being offered. These clauses do not require tailoring and should be retained in the draft Contract without change.

The first of the sub-option clauses (A-1) defines the Award Term Determination Date (ATDD); the date when the Commonwealth makes a final determination as to whether an Award Term will be offered. In effect, the assessment process spans the Award Assessment Period and, as a result of poor performance, it should be known much earlier if an Award Term cannot be offered. Results of the determination process are notified to the Contractor in subsequent clauses. The sets of optional clauses allow for the selection of either a 'standard Award Term model' or a 'rolling-wave Award Term model'.

For the standard model (Option A-1A), the ATDD occurs at least 100 Working Days (five months)¹³ before the Off Ramp Date (ORD) to allow time for a CCP for the Award Term to be drafted, agreed, and processed. If this option (standard model) is selected, this clause can be included in the draft Contract without change.

For the rolling-wave model (Option A-1B), the ATDD occurs within 20 Working Days after the end of a one-year Award Assessment Period, provided that there is still 100 Working Days until ORD (which may not be relevant to the initial ATDD but will be relevant to later ones). In this case, the drafter needs to identify the start of the first Award Assessment Period. Each subsequent ATDD will occur within 20 Working Days after each subsequent one-year Award Assessment Period (which start on the anniversary of the start of the initial Award Assessment Period).

In both Options A-1A and A-1B, drafters should recognise the importance of scheduling. For both models (and depending on the scheduled Review Periods), approximately 20 Working Days is allowed from the end of the Review Period until a decision is made and notification given. The first 10 of those 20 Working Days may elapse while waiting for the Performance Management Report for the previous Review Period (an important consideration for the CDRL) and a Performance Assessment Review (SOW clause 3.4.5) will also be held around the ATDD. Figure

¹³ If a CCP for an individual Contract extension is expected to take longer to prepare, the ATDD must be scheduled earlier.

12 provides an indication of the timeline from the end of the award Assessment Period and, in particular, from the ATDD to the ORD for a standard model Award Term contract.

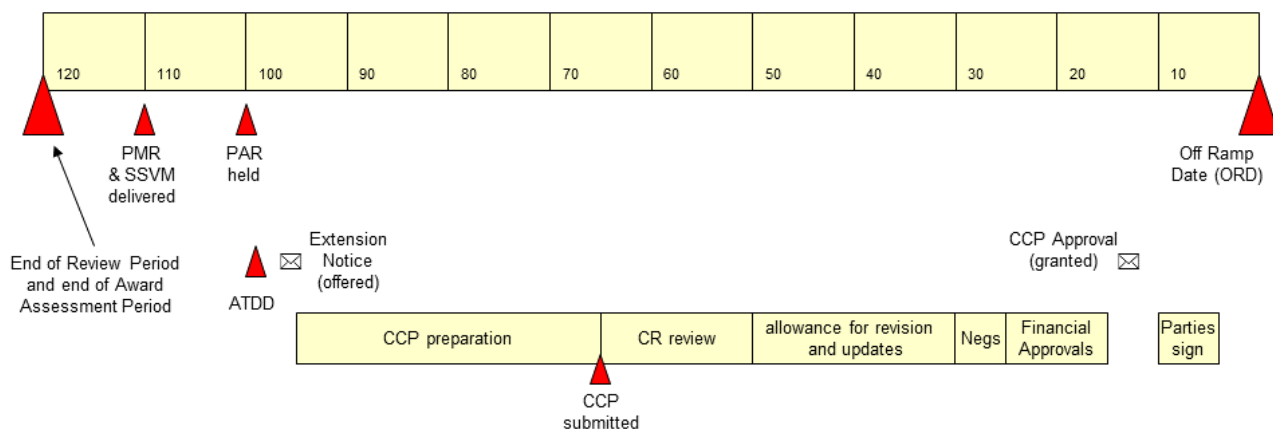


Figure 12: Approximate Timeline - ATDD to ORD

Clause 1.9.10¹⁴ defines the duration of the Award Assessment Periods. The start of the first Award Assessment Period is to be inserted by the drafter. For the rolling-wave Award Term model, the date is the same as the one inserted in Option A-1B. The first Award Assessment Period (and the first Review Period) could commence at OD, at the end of a stage in the PIP, after the PIP, or from some another event or Milestone from when Contractor’s performance can be reliably assessed. The Award Assessment Period ends at the end of the Review Period just prior to the ATDD.

Assessment Criteria. Clause 1.9.11 defines the criteria to be met to obtain the **satisfactory** rating needed for an Award Term to be ‘offered’ (‘granting’ an Award Term still depends on the agreement to a CCP). The criteria are listed in the subclauses, each of which is explained in the following paragraphs.

Subclause 1.9.11a requires that the Contractor has performed its obligations in a way that contributes to the joint Contract objectives defined in COC clause 1.3.

Subclause 1.9.11b requires that the Contractor conducted itself in a positive way, which has contributed to the performance assessed by other subclause criteria.

Subclause 1.9.11c identifies the criterion for the Contractor’s performance as measured by KPIs. Performance results must remain in Performance Bands A and B in order for an Award Term to be offered. Given how poor performance would be for results to occur in Performance Bands C and D (assuming KPIs are drafted correctly), and that such results will often be known before the ATDD, this criterion is almost considered as a prerequisite. Note also that Performance Band results may be amended by legitimate claims for performance relief – hence the reference is made to the ‘assessed’ Performance Band instead of the Performance Band for the original Achieved Performance results.

Subclause 1.9.11d refers to OPMs that are applicable to the Contractor’s activities and which have been identified as being used in the determination of Award Terms. OPMs can measure factors that are outside of the Contractor’s control (eg, health indicators for a Mission System) or are otherwise not suitable for Award Term considerations, hence in the definition of an applicable OPM, in Attachment Q, the drafter must identify if an OPM is used for Award Term purposes. Such OPMs could measure outcomes with respect to health and safety, compliance with an ADF regulatory / assurance framework and/or cooperation with Associated Parties.

¹⁴ Note that the clause will renumber once a preceding optional clause is deleted.

Subclause 1.9.11e is an optional subclause, to be included if Periodic Cost Reviews (PCRs) will be included in the draft Contract. Pricing information from a PCR helps the Commonwealth to assess on-going value for money.

Subclause 1.9.11f identifies the allowable number of **unsatisfactory** ratings for the CIE program – this is a key determinant for an Award Term to be offered. Drafters are to insert the maximum allowable number of **unsatisfactory** ratings into this clause (refer to draft SOW clause 3.4.5). This number would depend on the number of Review Periods (and, therefore, rating events) within an Award Assessment Period. For example, one unsatisfactory rating in four Review Periods is the equivalent of two unsatisfactory ratings in eight Review Periods so ‘one rating’ may be appropriate for a rolling-wave model and ‘one rating per year’ may be better for the standard model. Importantly, a satisfactory rating does not require new savings to be produced in every Review Period, but that the Contractor presented realistic opportunities, cooperated with Defence to find Efficiencies, conducted effective analysis, made the changes needed to implement Approved Efficiencies and then, at the applicable time, shared the savings.

Subclause 1.9.11g. specifies that no Remediation Plans should be required during the Award Assessment Period or, in the event that a Remediation Plan was required, progress was/is satisfactory in the Commonwealth Representative’s view. Remediation Plans are requested by the Commonwealth Representative, or triggered through the Contract, for a ‘curable’ default or other significant shortfall. Like performance against KPIs, this is treated as a prerequisite criterion as the Commonwealth would not want to continue a Contract under these circumstances (see also ‘Remediation Plans’ in this Guide).

Clause 19.12 confirms that not achieving the criteria identified in clause 1.9.11 will produce an ‘**unsatisfactory**’ rating, which (unless the Commonwealth uses its discretion under clause 1.9.16 for the standard Award Term model) results in an Award Term not being offered. This clause should be included in the draft Contract without change.

The Extension Notice. The second set of optional clauses (A-2) defines the duration of the Award Term. For the standard Award Term model, Option A-2A should be included. If necessary, the drafter may change the maximum and minimum durations allowed by this clause (note: the length of each Award Term will be included in the Extension Notice). Drafters should select Option A-2B for the rolling-wave Award Term model – this confirms the one-year duration implied by the ATDD clause. Drafters must delete the option that is not required.

Clause 1.9.15 of the template allows the final Award Term of the Contract to be extended until the Maximum Term. This allows Commonwealth resources to focus on the preparation of a replacement contract or the withdrawal of the major Products Being Supported (ie, those that form the basis of the Capability). In the case of the major Products being withdrawn from service, it will often not be feasible to implement any replacement contract following the proposed Award Term. Hence, if the Award Term extends the Contract to within three years (for example) of the PWD, the Commonwealth can extend the Contract until the major Products are withdrawn from service, without repeating the Award Term determination process. Drafters need to insert an appropriate period, in years to the Maximum Term, when this form of Contract extension may be used.

Clause 1.9.16 is an optional clause (A-3) that allows the Commonwealth, at its sole discretion, to extend the Contract for a short period even though the Contractor received an **unsatisfactory** rating. For use only with the standard Award Term model, this short extension acts to delay the ORD. This is not an Award Term in the normal sense as it is not a reward but an opportunity for the Commonwealth to confirm a return to **satisfactory** ratings. This extension may be used when the Contractor has not quite met performance criteria, or must implement a Remediation Plan, and the Commonwealth wishes to extend the Term for a short period so that the Contractor can demonstrate a sustained recovery. If included in the draft Contract, drafters need to insert the maximum period allowed for such extensions (eg, ‘six months’ or ‘two Review Periods’). This optional clause does not apply to a

rolling-wave Award Term model as the assessment process simply continues into the next Award Assessment Period unless the ORD occurs.

Clause 1.9.17 requires the Commonwealth to issue the Extension Notice to the Contractor, advising them of the Award Term and of any proposed changes in scope. Scope may be reduced if the Commonwealth decides that it wishes to re-compete some of the Services to obtain better value for money, or as an Efficiency to consolidate like Services under a common support contract. Scope may also be increased to include Services consolidated from other contracts or through forecast changes in the level of Services required (related to SOW clause 2.2).

This clause should be included in the draft Contract with minimal change. The cross-references to clauses 1.9.13 and 1.9.16, or to clause 1.9.14, need to be included for the optional clauses chosen.

Contract Change. Clause 1.9.18 requires the Contractor to prepare the CCP for the Award Term. The CCP needs to address several requirements, including any change in scope and the financial information required by clause 1.9.19. Drafters should review this clause but in most cases it can be retained in the draft Contract without change.

Clause 1.9.19 defines the principles by which pricing and related financial information for the CCP will be prepared. The option at sub-clause 1.9.19b should be included if the Contract will include PCRs under COC clause 1.11. The remainder of the clause should be reviewed but in most cases it can be retained in the draft Contract without change.

Clause 1.9.20 defines when the Commonwealth will reject the CCP because it was not prepared in accordance with the Extension Notice or if, as a whole, it does not represent value for money. A CCP that is initially rejected may be discussed and revised in accordance with COC clause 11.1. Clause 1.9.20 should be reviewed but in most cases it can be retained in the draft Contract without change.

Clause 1.9.21 is an optional clause that must be included for the rolling wave Award Term model. The clause sets a due date for the CCP to be agreed. Its objective is to prevent the CCP process from being frustrated by protracted negotiations over minor issues.

Clause 1.9.22 confirms that if the ORD occurs, then the Phase Out provisions of the Contract will apply. For the standard Award Term model this occurs if an Award Term is not offered or because a CCP for the Award Term cannot be agreed beforehand. For a rolling-wave Award Term model one or more Award Terms may not be offered or granted before the ORD is reached (depending on the length of the Initial Term). Phase Out provisions are included at COC clause 14.

Option B – Fixed-Term Contract

When a 'Fixed Term' contract is required, as stipulated in the SPS or delegates submission, drafters should select Option B and delete Options A and C. Fixed Term contracts should be relatively short-term and used when establishing an Award Term contract is not feasible. For example, to establish support (eg, in parallel with an acquisition) while a competitive tender process is being conducted for the on-going support contract.

If selecting Option B, the drafter needs to insert the Term for the Contract into the Details Schedule. The Term starts from the OD, and continues for the period while the Contractor provides the key Services (ie, the Operating Support, Engineering, Maintenance, Supply and Training Services) described in the SOW.

If a Contract (Support) is linked to a Contract (Acquisition), then defining the Contract Term from the OD, and linking OD to first system acceptance under the Contract (Acquisition), will coordinate the delivery of the Products (ie, 'Supplies') with the associated Services.

Option C – Contract Extensions by Renewal Term

Option C, under clause 1.9, allows the drafter to include Renewal Terms in the Contract. Renewal Terms are applicable where competition to support the major

Products is very limited (eg, because of IP or other restrictions), requiring the Commonwealth to directly-source the Services from a particular supplier. In these situations an Award Term is not viable. Renewal Terms are the Commonwealth's least preferred option for Contract extensions due to the lack of competition for both the contract and extensions. The use of Renewal Terms must be endorsed in the SPS, or equivalent, before inclusion in the draft Contract. If Renewal Terms are to be used, Options A and B under clause 1.9 must be deleted.

Although competition may be restricted at a major system / platform level, it may be possible for sub-systems or RIs to be supported, or some related Services provided by other parties, if the related work was open to competition from time to time. Accordingly, the Renewal Term clauses allow the Commonwealth to extend the Contract with reduced scope (refer also to clause 1.10); retaining the Services not able to be competed, while separately contracting for other services where there are a number of potential providers, and when cost-effective to do so.

The first clause, clause 1.9.25¹⁵, defines the Initial Term. Drafters are to insert the Initial Term in the Details Schedule; otherwise, the clause can be included in the draft Contract without change.

Clause 1.9.26 requires the drafter to identify the Maximum Term, in the Details Schedule, should one or more Renewal Terms be granted. The Maximum Term may be 'until the major Products are withdrawn from service', where it is unlikely that the Services, as a whole, could become open to competition (eg, if coordinated with a mid-life update program).

Clause 1.9.27 requires the Commonwealth to provide the Contractor with an Extension Notice in order to extend the Contract by a Renewal Term. The Extension Notice needs to advise the Contractor of any proposed changes in scope for the Renewal Term. Drafters should review the notice period in this clause (eg, 100 Working Days) and revise if necessary; otherwise, the clause can be included in the draft Contract without change.

Clause 1.9.28 requires the Contractor to prepare the CCP to give effect to the Renewal Term, based on the details within the Extension Notice. This clause may be included in the draft Contract without change.

Clause 1.9.29 requires the Contractor to address the price and payments, for the Renewal Term, and includes an optional subclause 1.9.29b for PCRs performed in accordance with COC clause 1.11. PCRs are typical in contracts with limited competition (eg, direct-sourced contract) and, therefore, for use with Renewal Terms. Drafters need to determine whether PCRs will be included in the Contract and then retain or delete subclause 1.9.29b accordingly (and clause 1.11). The other subclauses should be retained in the draft Contract without change.

Clause 1.9.30 confirms that if a Renewal Term is not given before ORD, then Phase Out commences in accordance with COC clause 14, and the Contract will expire. Although this situation could lead the Commonwealth into another direct-sourcing situation, it also allows the Commonwealth to more significantly change (eg, reduce) the scope of the core contract, within any over-riding restrictions created by IP and other constraints. Clause 1.9.30 should be retained in the draft Contract without change.

Drafter's Action: Refer to each option above.

Related Clauses: COC clause 1.5, Operative Date, for OD as the start date for the Initial Term and the Maximum Term

COC clause 1.10, Reduction in Scope for a Contract Extension

COC clause 1.11, Periodic Cost Review

COC clause 3.19, Continuous Improvement and Efficiencies

COC clause 6.12, Remediation of Performance Problems

¹⁵ Noting that clauses will re-number when Options A and B are deleted.

COC clause 11.1, Change to the Contract

COC clause 14, Phase Out

SOW clause 2.7, Ramp Up, for identifying alternatives to OD as the start of the Award Assessment Period

SOW clause 3.4.5, Performance Assessment Reviews, where the Performance Measurement Report is reviewed and CIE Program achievement is rated

SOW clause 13, Continuous Improvement and Efficiencies

Annex A to Attachment P, for KPI and Review Period definitions

Further Reading: Award Terms (section in this Guide)

COC CLAUSE 1.10, REDUCTION IN SCOPE FOR A CONTRACT EXTENSION

| | |
|--------------------------|---|
| <u>Status:</u> | Optional |
| <u>Purpose:</u> | To define the process by which the scope of the Contract may be reduced during an extension to the Contract Term. |
| <u>Policy:</u> | Nil |
| <u>Guidance:</u> | <p>Clause 1.10 defines the process for reducing the scope of Recurring Services during extensions to the Contract. This clause works in conjunction with clause 13.6, General Provisions for a Reduction in Scope. The clause contains options for either Award Terms or Renewal Terms, as selected in clause 1.9, Contract Term. If a fixed-term Contract was selected in clause 1.9 (Option B), or reductions in scope are not envisaged for Contract extensions (although there is no detriment by retaining this clause 'just in case'), then the heading of clause 1.10 should be retained and the subordinate clauses replaced with a single 'Not used'.</p> <p>There are a number of possible reasons for reducing scope during a Contract extension. These include, after the initial period of whole-of-system support that followed a Contract (Acquisition), where it becomes possible (and desirable) to compete the support for some Products or Services. For example, Training Services might be provided by the initial Contractor (Support), who was also the Contractor (Acquisition), and later competed amongst specialty training providers, coinciding with the first Renewal Term or Award Term (noting that the specialty Training provider may have been a subcontractor and the Commonwealth is cutting out the prime contractor's mark-up). In other cases, a reduction may be needed to implement a Commonwealth identified Efficiency (eg, someone else can provide the same Service at a lower cost).</p> <p>Clause 1.10 begins with two options; Option A is selected for use with Award Terms while Option B is selected for use with Renewal Terms (as selected in clause 1.9). When one option is selected the other must be deleted. The final sub-clauses apply to both forms of Contract extension.</p> <p>Option A, for use with Award Terms, references the reasons why an Award Term may have been granted with some elements of the Core Services removed. This is explained because otherwise it would seem unusual to grant a reward (the Award Term) to the Contractor at the same time as reducing the work from which the Contractor makes a profit. If Option A is selected the clause should be reviewed but, in general, should be included in the draft Contract without change.</p> <p>Option B, for use with Renewal Terms, is a straight-forward clause without explanation of the reasons for reducing scope. Unlike Award Terms, Renewal Terms are not reward-based and no explanation is required by the clause (although an explanation could still be included in the Extension Notice). If Option B is selected the clause should be reviewed but, in general, should be included in the draft Contract without change.</p> <p>Clauses 1.10.3 and 1.10.4 define, for clarity, provisions pertaining to liability and obligations to implement the Contract extension with a reduced scope. The cross-reference in the stem of clause 1.10.3 needs to refer to the selected optional clause, from either Option A or Option B; otherwise these two clauses should be retained in the draft Contract without change.</p> |
| <u>Drafter's Action:</u> | If including this clause, drafters must select Option A or B, for Award Terms or Renewal Terms respectively. Drafters should confirm that the cross-references remain correct. |
| <u>Related Clauses:</u> | COC clause 1.9, Term COC clause 13.6, General Provisions for Reductions in Scope |

ANNEX A OPMS FOR WORK HEALTH AND SAFETY

Introduction

The following example 'OPMs' are based on performance measures identified in the WorkSafe Australia 'Workplace Injury and Disease Recording Standard – Resource Kit (1991)' and the Australian Government Building and Construction OHS Accreditation Scheme, November 2010. Accordingly, these OPMs may be updated or superseded with changes in legislation, and the drafter should review the relevant codes of practice and guidance for the WHS Act (2012) for the latest approach.

The example OPMs include:

- Lost-Time Injury (LTI) Occurrences,
- Medically Treated Injuries (MTI) Occurrence,
- LTI Incidence Rate (LTIIR),
- LTI Frequency Rate (LTIFR), and
- Average Time Lost Rate (ALTR).

1 OPM-01: LOST TIME INJURY OCCURRENCES

Note: Lost time injury occurrences are applicable to all contracts. Also note that individual occurrences must be reported when they occur, as a Notifiable Incident, in accordance with SOW clause 12.4.

1.1 Purpose of the OPM

- 1.1.1 This OPM is used to report on the occurrence of lost time injuries (LTIs), in order to monitor and promote on-going improvement in WHS for the work conducted under the Contract.

1.2 Description of the OPM

- 1.2.1 This OPM is the total from a count of the number of LTIs occurring in a month.
- 1.2.2 An LTI is defined as: 'a work related occurrence that results in a permanent disability or injury resulting in time lost from work of one day/shift or more'. Refer to the *OHS Performance Reporting Pack for the Australian Government Building and Construction OHS Accreditation Scheme, November 2010* or the *Workplace Injury and Disease Recording Standard – Resource Kit (Worksafe, Australia 1991)* for additional explanation of inclusions and exclusions for LTI occurrences.

Note: Consider re-wording or expanding the following clause if it is beneficial to receive information by site and whether subcontractors should be listed individually or grouped as a single result per month. If more detail is required (eg, by trade group, work area or type of incident, using WHSMS reporting codes) then the additional reporting effort required should be considered (which may be minimal for automated systems).

- 1.2.3 This OPM shall be measured for each month within the reporting period, for work performed under this Contract by the Contractor and each Approved Subcontractor.

2 OPM-02: MEDICALLY TREATED INJURY OCCURRENCES

Note: Medically treated injury occurrences complement LTIs and are applicable to all contracts, but may not be essential for smaller contracts. Note that an MTI is NOT a Notifiable Incident, with respect to SOW clause 12.4, unless the incident was also considered to be a 'dangerous occurrence' (eg, which could have resulted in an LTI with more than one week of lost work time).

2.1 Purpose of the OPM

- 2.1.1 This OPM is used to report on the occurrence of medically treated injuries (MTIs), in order to monitor and promote on-going improvement in WHS. MTIs are often considered as warnings of potentially more serious incidents.

2.2 Description of the OPM

- 2.2.1 This OPM is a count of the number of MTIs occurring in a month.
- 2.2.2 An MTI is defined as: 'A work related occurrence that results in treatment by, or under the order of, a qualified medical practitioner, or any injury that could be considered as being one that would normally be treated by a medical practitioner but does not result in the loss of a full day/shift'. These may also be terms 'alternate work injuries'. Refer to the OHS Performance Reporting Pack for the Australian Government Building and Construction OHS Accreditation Scheme, November 2010 for additional explanation.

Note: Consider re-wording or expanding the following clause if it is beneficial to receive information by site and whether subcontractors should be listed individually or grouped as a single result per month. If more detail is required (eg, by trade group, work area or type of incident, using Work Health and Safety Management System (WHSMS) (refer to the resource kit) reporting codes) then the additional reporting effort required should be considered (which may be minimal for automated systems).

- 2.2.3 This OPM shall be measured for each month of the reporting period, for work performed under this Contract by the Contractor and as a combined total for all Subcontractors.

3 OPM-03: AVERAGE TIME LOST RATE

Note: The average time lost rate is used as a measure of the severity of injuries suffered – the higher the average, the more severe the injuries as they require longer recovery periods. This OPM is applicable to contracts of all sizes, but for smaller contracts a minimum reporting period of three or six months may be necessary as a basis for monitoring trends.

3.1 Purpose of the OPM

- 3.1.1 This OPM is used as a measure of the severity of injuries and diseases suffered by workers.

3.2 Description of the OPM

- 3.2.1 This average time lost rate (ATLR) is defined as: 'the average time lost per lost-time occurrence of injury or disease' for a given period. Refer to the Workplace Injury and Disease Recording Standard – Resource Kit (Worksafe, Australia 1991) for additional explanation
- 3.2.2 The ATLR shall be calculated using the following formula:

$$ATLR = \frac{\text{number of working days lost in the period}}{\text{number of lost - time occurrences in the period}}$$

Where:

Lost-time occurrences in the period is a count of the lost-time occurrences, including lost-time for both injuries and diseases, for the period; and

number of workers is the average number of workers who worked under the Contract for the period.

Note: Consider re-wording or expanding the following clause if it is beneficial to receive information by site and whether subcontractors should be listed individually or grouped as a single result per month. If more detail is required (eg, by trade group, work area or type of incident, using WHSMS reporting codes) then the additional reporting effort required should be considered (which may be minimal for automated systems).

- 3.2.3 This OPM shall be determined for each month of the reporting period, for work performed under this Contract by the Contractor and each Approved Subcontractor.

4 OPM-04: LTI INCIDENCE RATE

Note: The LTI incidence rate is generally not suitable for smaller contracts (ie, < 200 workers from the Contractor and Subcontractors). In these cases the low number of occurrences will not provide statistically meaningful results from which trends can be monitored. Likewise, to obtain representative data requires a sufficient measurement and reporting period, such as six months for medium sized contracts and 3 months for larger contracts.

4.1 Purpose of the OPM (Core)

- 4.1.1 This OPM is used to analyse the occurrence of LTIs in proportion to the number of workers, in order to monitor trends and promote on-going improvement in WHS.

4.2 Description of the OPM (Core)

- 4.2.1 The LTI incidence rate (LTIIR) is defined as the number of LTI occurrences in the period for each 100 workers employed.
- 4.2.2 The LTIIR shall be calculated using the following formula:

$$LTIIR = \frac{\text{number of LTI occurrences in the period}}{\text{number of workers}} \times 100$$

Where:

LTI occurrences in the period is determined in accordance with OPM-01; and

number of workers is the average number of workers who worked under the Contract for the period.

Note: The reporting period for this OPM should consider delivery of the CSR (eg, 3 or 6 months), noting that the SSVM may include interim results. The list in the subclauses below would also need to be amended as appropriate. For example, Approved Subcontractors would be removed if it was not feasible to have 200 workers within an Approved Subcontractor's organisation, given the scope of the draft contract. Likewise, all three could be replaced with 'by the Contractor and all Subcontractors' if the total number of Subcontractor workers is likely to be less than 200.

- 4.2.3 The OPM shall be determined for each [...SELECT THREE OR SIX MONTHS...] period, ending with the current reporting period, for work performed under this Contract:
- a. by the Contractor;
 - b. as a total for all Subcontractors; and
 - c. for each Approved Subcontractor with over 200 workers working under the Contract.

4.3 OPM Measurement

- 4.3.1 The *LTI occurrences in the period* shall be the sum of the monthly total(s) determined for OPM-01 (ie, a total across all locations and occupations) for the Contractor and Subcontractors, as applicable.
- 4.3.2 The *number of workers* shall be taken from the Contractor's and Subcontractors' HR management / work-hours recording systems, and the average determined as the total number of days worked for the period, by all workers, divided by the number of working days in the period (ie, excludes those workers absent on leave).

5 OPM-05: LTI FREQUENCY RATE

Note: LTI frequency rate (LTIFR) is only of value where the number of hours per day is non-standard (ie, not 8 hours) due to shifts / overtime. It is a more precise measure than LTIIR as it relates the number of incidents to the time exposed to hazards. Like LTIIR, LTIFR is only statistically meaningful for a larger workforce (ie, > 200) for which trends can be monitored. Likewise, to obtain representative data requires a sufficient measurement and reporting period, such as six months for medium sized contracts and three months for larger contracts

5.1 Purpose of the OPM (Core)

- 5.1.1 This OPM is used to analyse the occurrence of LTIs in proportion to the number of hours worked, in order to monitor trends and promote on-going improvement in WHS.

5.2 Description of the OPM (Core)

- 5.2.1 The LTI frequency rate (LTIFR) is defined as the number of LTI occurrences for each one million hours worked.

5.2.2 The LTIFR shall be calculated using the following formula:

$$LTIFR = \frac{\text{number of LTI occurrences in the period}}{\text{number of hours worked in the period}} \times 1,000,000$$

Where:

LTI occurrences in the period is determined in accordance with OPM-01; and

number of hours worked in the period is the total number of actual number of hours (ie, not an estimate) worked under the Contract for the period.

Note: The reporting period for this OPM should consider delivery of the CSR (eg, 3 or 6 months), noting that the SSVM may include interim results. The list would also need to be amended as appropriate. For example, Approved Subcontractors would be removed if it was not feasible to have 200 workers within an Approved Subcontractor's organisation (most situations), given the scope of the draft contract. Likewise, all three could be replaced with 'by the Contractor and all Subcontractors' if the total number of Subcontractor workers is likely to be less than 200.

5.2.3 The OPM shall be determined for each [...SELECT THREE OR SIX MONTHS...] period, ending with the current reporting period, for work performed under this Contract:

- a. by the Contractor;
- b. as a total for all Subcontractors; and
- c. for each Approved Subcontractor with over 200 workers working under the Contract.

5.3 OPM Measurement

5.3.1 The *LTI occurrences in the period* shall be the sum of the monthly total(s) determined for OPM-01 (ie, a total across all locations and occupations) for the Contractor and Subcontractors, as applicable.

5.3.2 The *number of hours worked in the period* shall be taken from the Contractor's and Subcontractors' HR management / work-hours recording systems.